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to

Title 5

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*

PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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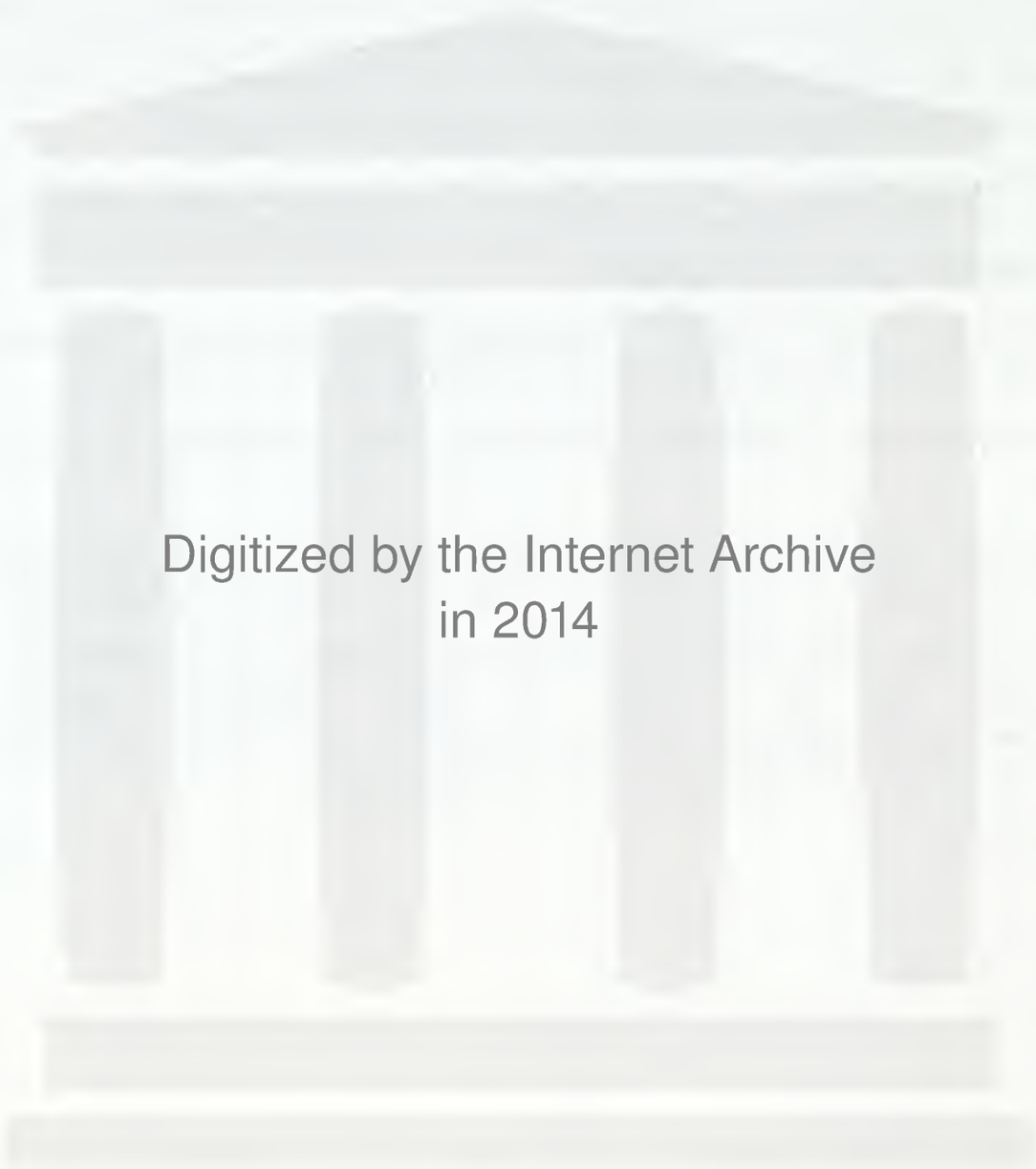

DIVISION I. GOVERNMENT OF DISTRICT.

TITLE 4. PUBLIC CARE SYSTEMS.

Chapter 1. Public Welfare Supervision.

§ 4-101. Board of Charities, Board of Children's Guardians, and National Training School for Girls abolished. [Omitted].

Omitted.

Cross references. — Grants to states for aid to families with children and for child-welfare services, Social Security Act, see 42 U.S.C. § 601 et seq.

Section references. — This section is referenced in § 4-220.01.

Omission of text. — The provisions of former § 4-101 have been omitted as obsolete, the Boards referred to herein having been abolished. The former Board of Charities, Board of Children's Guardians, and the Board of Trustees of the National Training School for Girls were abolished upon the appointment and organization of the Board of Public Welfare pursuant to the Act of March 16, 1926, 44 Stat. 208, ch. 58, § 1. The Board of Public Welfare was subsequently abolished. See notes to § 4-102.

§ 4-102. Board of Public Welfare — Created; successor to abolished Boards; employees transferred. [Omitted].

Omitted.

Section references. — This section is referenced in § 4-124.

Omission of text. — The provisions of former § 4-102 have been omitted as obsolete, the Board referred to herein having been abolished.

Board of Public Welfare abolished. — The Board of Public Welfare was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 58, as amended, redesignated as Organization Order No. 140 and amended, established, under the direction and control of a Commissioner, a Department of Public Welfare, headed by a Director with the purpose of planning, implementing, and directing public welfare programs. Reorganization Order No. 58 provided that the previously existing Board of Public Welfare would be abolished. That Order also transferred specified functions of the former Board to the Department of Public Health and the Department of Public Welfare. Functions of the Department of Public Welfare and of the Department of Public Health, as set forth in Organization Order Nos. 140 and 141, respectively, were transferred to the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by the Department of Human Services by Reorganization Plan No. 2 of 1979, dated February 21, 1980.

§ 4-103. Board of Public Welfare — Composition; appointment; term of office; vacancies; residency requirement; removal; compensation. [Omitted].

Omitted.

Omission of text. — The provisions of former § 4-103 have been omitted as obsolete, the Board referred to herein having been abolished. See notes following § 4-102.

§ 4-104. Board of Public Welfare — Officers; meetings; authority to make rules, regulations, and orders. [Omitted].

Omitted.

Omission of text. — The provisions of former § 4-104 have been omitted as obsolete, the Board referred to herein having been abolished. See notes following § 4-102.

§ 4-114. Powers of Mayor over dependent children.

(a) The Mayor of the District of Columbia (hereinafter referred to as the "Mayor") may:

(1) Make temporary provision for the care of children pending investigation of their status;

(2) Have the care and legal guardianship, including the power to consent to or arrange for adoption in appropriate cases, of:

(A) Children who may be committed to the Mayor as wards of the District of Columbia by courts of competent jurisdiction; and

(B) Children who are relinquished by their parents to the Mayor or whose relinquishment is transferred to the Mayor by a licensed child-placing agency under § 4-1406;

(3) Make such provisions for the care and maintenance of such children in private homes, under contract, including adoption subsidy pursuant to § 4-301, or in public or private institutions, as the welfare of such children may require; and

(4) Provide care and maintenance for children with substantial intellec-

tual disabilities who may be received upon application or upon court commitment, in institutions or homes or other facilities equipped to receive them, within or without the District of Columbia.

(b) The Mayor shall cause the wards of the District of Columbia placed out under temporary care to be visited as often as may be required to safeguard their welfare.

(c) The Mayor may, where appropriate, secure an assignment of rights from a parent whose child is in the custody of a person or agency receiving foster care maintenance payments under Part E in Subchapter IV of the Social Security Act (42 U.S.C. § 670 et seq.).

(Mar. 16, 1926, 44 Stat. 210, ch. 58, § 11; Jan. 2, 1974, 87 Stat. 1057, Pub. L. 93-241, § 1(a)(1); Feb. 24, 1987, D.C. Law 6-166, § 33(e), 33 DCR 6710; Sept. 26, 2012, D.C. Law 19-169, § 8, 59 DCR 5567.)

Section references. — This section is referenced in § 4-115.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "children with substantial intellectual disabilities" for "substantially retarded children" in (a)(4).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 2. PUBLIC ASSISTANCE.

Subchapter I. Definitions

Subchapter II. Establishment of Programs; Administration of Chapter

Subchapter IV. Medicaid Program Administration

Part A

General

Subchapter V. Public Assistance Programs

Subchapter XII. Payments to Incapacitated Individuals

Subchapter I. Definitions.

§ 4-201.01. Definitions.

For the purposes of this chapter, the term:

(1) Repealed.

(1A) "Adult" means a person who is not a minor.

(1B) "Assistance unit" means all individuals whose needs, income and resources are considered in determining eligibility for, and the amount of, public assistance.

(1C) "Caretaker relative" means a relative by blood, half-blood, or legal adoption caring for a dependent child, who is a child's parent, or, if a parent is not in the home exercising responsibility for the care and control of the dependent child, the child's sibling; aunt; uncle; first cousin; first cousin once removed; second cousin; nephew; niece; grandparent; step-parent; step-sibling; relative of a preceding generation as denoted by prefixes of grand-, great-, great-great-, or great-great-great-; or the spouse of a parent or other relative listed in this paragraph, even after the marriage is terminated by death or divorce.

(1D) Repealed.

(2) "Council" means the Council of the District of Columbia.

(2A) "Department" means the Department of Human Services of the District of Columbia, or any successor organizational unit (in whole or in part).

(3) "District" means the District of Columbia government.

(3A) "GAC" means the General Assistance for Children program established by § 4-205.05a.

(4) Repealed.

(4A) "Head of assistance unit" means:

(A) The adult parent of a minor child, if both are part of the same single-parent assistance unit;

(B) The principal household income earner or the nonincapacitated parent in a two-parent assistance unit, if that person is an adult parent of a minor child, and the parent and child are part of the same assistance unit;

(C) A caretaker relative residing with, and providing care for, a minor child, if the caretaker relative and child are part of the same assistance unit; or

(D) A minor parent of a minor child, if the parent and child are part of the same assistance unit and there are no adults in the assistance unit.

(5) "Mayor" means the Mayor of the District of Columbia or the agents, agencies, officers, and employees designated by him or her to perform any function vested in them by this chapter.

(5A) "Minor" means a person who is:

(A) Less than 18 years of age; or

(B) Less than 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

(5B) "Parent" means a child's natural or adoptive parent.

(5C) "Parent who is the principal household income earner" means whichever parent, in a home in which both parents of a minor child are living,

earned the greater amount of income in a 24-month period, the last month of which immediately preceded the month in which a TANF application was filed.

(5D) "POWER" means the Program on Work, Employment, and Responsibility established by § 4-205.72.

(6) "Public assistance" means payment in or by money, medical care, remedial care, goods or services to, or for the benefit of, needy persons.

(7) "Recipient" means a person to whom or on whose behalf public assistance is granted.

(8) "State" means each of the states of the United States. The term "state" includes Puerto Rico, Guam, and the United States Virgin Islands.

(9) "Stepparent" means a person who is living in the home of a minor child for whom TANF or POWER is requested, and who is legally married to the natural or adoptive parent of the child.

(10) "TANF" means the Temporary Assistance for Needy Families Program established by subchapter II of this chapter.

(11) "IV-D agency" means the organizational unit, or any successor organizational unit (in whole or in part), that is responsible for administering or supervising the administration of the District's State Plan under title IV, Part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), pertaining to paternity establishment and the establishment, modification, and enforcement of child support orders and certain spousal support orders (those in which the spouse or former spouse is living with a child for whom the spousal support obligor also owes support).

(Apr. 6, 1982, D.C. Law 4-101, § 101, 29 DCR 1060; Aug. 17, 1991, D.C. Law 9-27, § 2(a), 38 DCR 4205; Feb. 5, 1994, D.C. Law 10-68, § 10(a), 40 DCR 6311; Mar. 20, 1998, D.C. Law 12-60, § 701(a), 44 DCR 7378; Apr. 20, 1999, D.C. Law 12-241, § 2(a), 46 DCR 905; Apr. 12, 2000, D.C. Law 13-91, § 135, 47 DCR 520; Dec. 17, 2009, D.C. Law 18-94, § 2(a), 56 DCR 8521; Dec. 24, 2013, D.C. Law 20-61, § 5052(a), 60 DCR 12472.)

Section references. — This section is referenced in § 4-401 and § 46-226.03.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 substituted "Less than 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training)" for "18 years of age, a full-time student in a secondary school or in the equivalent level of vocational or technical training, and who is expected to graduate from such school or training by the person's 19th birthday" in (5A)(B).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 5052(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5052(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 5051 of D.C. Law 20-61 provided that Subtitle F of Title V of the act may be cited as the "Department of Human Services Conforming Amendments Act of 2013".

Editor's notes.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter II. Establishment of Programs; Administration of Chapter.

§ 4-202.05. Mayor to issue rules.

(a) The Mayor shall, no later than January 1, 1986, and pursuant to subchapter I of Chapter 5 of Title 2, issue rules necessary to implement § 2 of the District of Columbia Public Assistance Act of 1982 Amendments Act of 1985.

(b) The Mayor shall promptly issue proposed rules to implement the provisions of the Self-Sufficiency Promotion Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-241; 46 DCR 905), pursuant to subchapter I of Chapter 5 of Title 2. The proposed rules shall be submitted to the Council for a 30-day period of review excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 30-day review period, the proposed rules shall be deemed approved.

(c)(1) Within 90 days of January 19, 2011, the Mayor shall issue proposed rules on sanctions.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(d) Within 30 days of December 24, 2013, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of [D.C. Law 20-61, §§ 5151 to 5153].

(Apr. 6, 1982, D.C. Law 4-101, § 205, as added Sept. 10, 1985, D.C. Law 6-35, § 2(a), 32 DCR 3778; Apr. 20, 1999, D.C. Law 12-241, § 2(f), 46 DCR 905; Apr. 20, 1999, D.C. Law 12-264, § 15(a), 46 DCR 2118; Apr. 8, 2011, D.C. Law 18-370, § 522(a), 58 DCR 1008; Sept. 20, 2012, D.C. Law 19-168, § 5162(a), 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 5153(a), 60 DCR 12472.)

Section references. — This section is referenced in § 4-202.02 and § 4-205.11b.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (d).

The 2013 amendment by D.C. Law 20-61, in (d), substituted "December 24, 2013" for "September 20, 2012" and "[D.C. Law 20-61, §§ 5151 to 5153]" for "[D.C. Law 19-168, §§ 5161 to 5163]."

Emergency legislation.

For temporary (90 days) amendment of this section, see § 5153(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5153(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — See note to § 4-201.01.

Short title.

Section 5151 of D.C. Law 20-61 provided that Subtitle N of Title V of the act may be cited as

the "Temporary Assistance for Needy Families Time Limit Amendment Act of 2013".

References in text. — The Time limit Act, referred to in (d), is Subtitle Q of Title V of D.C. Law 19-168, consisting of §§ 5161 to 5163. Subtitle Q added § 4-202.05(d), amended §§ 4-205.11b, 4-205.19a, 4-205.72(e), and 4-205.74(a), and enacted § 4-205.72a.

Editor's notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Section 5152 of D.C. Law 20-61 repealed D.C. Law 19-168, § 5163.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter IV. Medicaid Program Administration.

PART A.

GENERAL.

§ 4-204.07. Interim Disability Assistance.

(a) The purpose of the Interim Disability Assistance ("IDA") program is to provide temporary financial assistance to adults with disabilities while their application for Supplemental Security Income ("SSI") is pending. The eligibility criteria are designed to qualify individuals who have a high likelihood of receiving SSI.

(b) Applications for IDA shall be approved or disapproved by the Mayor with reasonable promptness. Other aspects of the application process, including good-cause exceptions to the application-processing standard, shall be determined by rules established by the Mayor. The monthly grant amount shall be the same as that for a family size of one for an individual or 2 for a couple under the Temporary Assistance to Needy Families program, as determined under § 4-205.52.

(c) For the purposes of IDA, the term "disability" shall have the same meaning as that employed by the Social Security Administration ("SSA");

(d)(1) An individual shall be eligible for IDA if the individual is:

(A) A United States citizen or an alien who meets the alien eligibility requirements for SSI under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 22, 1996 (110 Stat. 2260; 8 U.S.C. §§ 1601-1646);

(B) A resident of the District of Columbia, as determined under § 4-205.03;

(C) Financially in need, as determined under the rules established by the Mayor;

(D) Ineligible for a category of cash assistance in which there is federal financial participation, except that an individual who has applied for Social Security Disability Insurance ("SSDI") or Supplemental Security Income may be eligible during the period that the SSDI or SSI application is being processed; and

(E) Determined by the Department of Human Services ("DHS") to meet the definition of disability.

(2) An otherwise eligible individual may not receive assistance unless the individual:

(A) Applies to the Social Security Administration for SSI benefits and maintains or pursues an active SSI application, motion for reconsideration, or request for hearing before an Administrative Law Judge, subject to the limitations of paragraph (3) of this subsection;

(B) Signs an Interim Assistance Reimbursement Authorization form in accordance with subsection (e)(2) of this section;

(C) Provides a social security number or verification of application for a social security number; and

(D) As a condition of eligibility, an applicant for or recipient of IDA shall cooperate with an entity designated by the Mayor to provide case management and legal advocacy in the SSI application and appeal process.

(3)(A) An otherwise qualified individual's period of eligibility for IDA benefits shall begin in the month following the month in which his or her application for SSI was filed with the Social Security Administration.

(B) An otherwise qualified individual's period of eligibility for IDA benefits shall end either at the end of the month in which the Social Security Administration begins payment of SSI benefits, or at the end of the month in which an Administrative Law Judge issues a decision denying the IDA recipient's SSI application following a hearing pursuant to 20 C.F.R. § 416.1429.

(C) Repealed.

(D) If the decision of the Administrative Law Judge is a denial, the Department of Human Services shall immediately make a determination whether to refer the individual for appropriate vocational rehabilitation services.

(E) If an IDA recipient requests a fair hearing to contest the termination of his or her benefits, any IDA benefits paid pending the outcome of the fair hearing shall terminate as of the last month of the period of eligibility, as defined in this section, regardless of whether the fair hearing process is complete.

(4) If an applicant for IDA has previously been determined by the Social Security Administration ("SSA") not to satisfy the disability requirements for SSI, DHS will evaluate disability in the same manner as under the Medicaid program, as provided in 42 C.F.R. § 435.541. The applicant shall be ineligible for IDA unless he or she:

(A) Alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination;

(B) Alleges more than 12 months after the most recent SSA determination denying disability that his or her condition has changed or deteriorated since that SSA determination, alleges a new period of disability which meets the durational requirements of the Social Security Act, and has not applied to SSA for a determination with respect to these allegations; or

(C) Alleges less than 12 months after the most recent SSA determination denying disability that his or her condition has changed or deteriorated since that SSA determination, alleges a new period of disability which meets

the durational requirements of the Social Security Act, and has applied to SSA for reconsideration or reopening of its disability decision.

(e)(1) For any month or period of months in which an IDA recipient receives both IDA and SSI, the IDA recipient shall repay to the District of Columbia:

(A) The entire amount of the IDA assistance payments received if the SSI benefits received for the same period equaled or exceeded the IDA payment; or

(B) That portion of the IDA assistance payments equal in amount to the SSI benefits received for the same period if the SSI benefits received were less than the IDA payment.

(2) To make repayment in accordance with paragraph (1) of this subsection, an IDA applicant shall sign an Interim Assistance Reimbursement Authorization which:

(A) Permits the Social Security Administration to send the individual's past-due SSI benefit payment to the DHS; and

(B) Permits DHS to deduct from these payments an amount equal to the IDA benefits provided.

(3) Upon receipt of an IDA recipient's past-due SSI benefit, DHS shall calculate, in accordance with paragraph (1) of this subsection, the amount of the benefit due to DHS as repayment and the amount, if any, due the IDA recipient. DHS shall then provide the IDA recipient with a written explanation of this calculation and shall pay any amount due the IDA recipient, in accordance with section 1631 of the Social Security Act, approved October 30, 1972 (86 Stat. 1475; 42 U.S.C. § 1383(g)) and SSA Interim Assistance regulations, 20 C.F.R. §§ 416.1901 to 416.1922.

(4) Because having a pending SSI application is an eligibility requirement for IDA, if an IDA recipient is determined by the Social Security Administration to meet the disability requirements for purposes of SSI eligibility but withdraws the SSI application prior to payment of past-due SSI benefits, the IDA benefits received by that individual shall be considered an overpayment and that individual shall be liable to the District for repayment of all IDA benefits received.

(e-1)(1) The amount of a recipient's past-due SSI benefit payment that is due DHS as repayment under subsection (e) of this section shall be deposited into the Interim Disability Assistance Fund established by § 4-204.09.

(2) The amount of an overpayment of IDA benefits that is received from an IDA recipient pursuant to subsection (e)(4) of this section shall be deposited into the Interim Disability Assistance Fund established by § 4-204.09.

(f) The Mayor shall submit to the Council by March 15 of each year a report on the operation of the program for the previous calendar year. The report shall include:

(1) The total number of IDA applicants, the number approved, and the number denied;

(2) The number and percentage of IDA applicants approved for SSI. To the extent possible, the information should be provided for each of the four levels of adjudication (original application, reconsidered application, Administrative Law Judge decision, and Appeals Council of the Office of Hearings and Appeals;

(3) An analysis of the approvals and denials at each level, why the approval percentage is what it is, and what needs to be done to ensure a better match between SSI approvals and DHS approvals; and

(4) Observations on the best practices in other states.

(g) The payment of benefits under this section shall be subject to the availability of appropriations.

(h) The Department of Human Services shall establish eligibility criteria for participants in the Interim Disability Assistance program.

(Apr. 6, 1982, D.C. Law 4-101, § 407, as added Apr. 3, 2001, D.C. Law 13-252, § 2(b), 48 DCR 673; Oct. 1, 2002, D.C. Law 14-190, § 1902(a), 49 DCR 6968; May 18, 2004, D.C. Law 15-156, § 2, 51 DCR 3393; Sept. 14, 2011, D.C. Law 19-21, § 5092, 58 DCR 6226; Dec. 24, 2013, D.C. Law 20-61, § 5162, 60 DCR 12472.)

Section references. — This section is referenced in § 4-204.09.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 rewrote (d)(2)(A) and (d)(3).

Emergency legislation.

For temporary (90 days) amendment of this section, see §§ 5162 and 5163 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see §§ 5162 and 5163 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-201.01.

Short title.

Section 5161 of D.C. Law 20-61 provided that Subtitle O of Title V of the act may be cited as the "Interim Disability Assistance Emergency Amendment Act of 2013".

Editor's notes.

Section 5163 of D.C. Law 20-61 provided that § 5162 of the act shall not be construed as affecting the eligibility of an otherwise qualified individual who has a Social Security application pending on Dec. 24, 2013.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART C.

MEDICAID AND SPECIAL EDUCATION REFORM FUND.

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§ 4-204.53. Establishment of the Medicaid and Special Education Reform Fund.

Section references. — This section is referenced in § 4-204.52 and § 7-1811.03.

Emergency legislation.

For temporary (90 day) addition of section, see § 5142 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5142 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Editor's notes. — Section 5142 of D.C. Law 19-168 provided:

"(a) Beginning on June 1, 2012, unspent funds from Medicaid underenrollment, calculated on a fiscal year basis, shall be set aside in a fund to offset the costs to implement the South Capitol Street Memorial Amendment Act of 2012 effective June 7, 2012 (D.C. Law 19-141; 59 DCR 3083) ('South Capitol Street Memorial Amendment Act').

"(b) This section shall not apply if the South Capitol Street Memorial Amendment Act is fully funded, as certified by the Chief Financial Officer, either by the terms of this section or pursuant to section 10002(3) of the Revised

Revenue Estimate Contingency Priority List Act of 2012, passed on 2nd reading on June 5, 2012 (Enrolled version of Bill 19-743)."

§ 4-204.54. Purposes of the Fund.

Section references. — This section is referenced in § 4-204.53 and § 4-204.55.

Emergency legislation.

For temporary (90 day) addition of section, see § 5142 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5142 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Subchapter V. Public Assistance Programs.

§ 4-205.11b. Reduction of benefits for long-term TANF recipients.

(a) Except as provided in subsections (b) and (c) of this section, an individual who has received federally funded or locally funded TANF benefits in the District for more than 60 months, whether or not consecutive, shall receive a reduction in his or her maximum benefit in accordance with § 4-205.52 and as set forth in rules issued pursuant to § 4-202.05(d) and § 4-205.52(d).

(b) In determining the number of months that an individual has received TANF benefits, the District shall not count any month that the individual is a minor who is:

(1) Not the head of household; and

(2)(A) Not the head of an assistance unit; or

(B) Married to the head of an assistance unit.

(c) Repealed.

(d) Repealed.

(e) Within 12 months of, but no less than 90 days before, the elimination of benefits pursuant to this section, a client shall have the opportunity to complete or update an Individual Responsibility Plan. Pursuant to the Individual Responsibility Plan, the Department shall assist the customer with accessing support for addressing barriers to employment and assist with the transition to employment.

(f) Repealed.

(Apr. 6, 1982, D.C. Law 4-101, § 511b, as added Apr. 8, 2011, D.C. Law 18-370, § 522(b), 58 DCR 1008; Sept. 20, 2012, D.C. Law 19-168, § 5162(b), 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 5153(b), 60 DCR 12472.)

Section references. — This section is referenced in § 4-205.52 and § 4-205.72.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 substituted "of benefits" for "in benefits" in the section heading; and rewrote the section.

The 2013 amendment by D.C. Law 20-61 repealed (c), (d), and (f).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 5153(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5153(b) of the Fiscal Year 2014

Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — See note to § 4-201.01.

Short title. — Section 5151 of D.C. Law 20-61 provided that Subtitle N of Title V of the act may be cited as the "Temporary Assistance for Needy Families Time Limit Amendment Act of 2013".

Editor's notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Section 5152 of D.C. Law 20-61 repealed D.C. Law 19-168, § 5163.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-205.11c. Human impact statement.

Within 120 days of October 1, 2013, the Auditor shall conduct an assessment of the impact of reductions in assistance pursuant to this chapter on families and their children and issue a human impact statement, which shall include:

(1) The number of families affected;

(2) The number of children affected in the following age categories;

(A) Infant — 3 years old;

(B) 4-9 years old;

(C) 10-13 years old; and

(D) 14-18 years old;

(3) A sample of at least 100 families, including a consideration of the children regarding:

(A) Changes in school performance;

(B) Changes in after-school performance;

(C) Changes in health status; and

(D) New interactions with Child and Family Services Agency, Department of Human Services, Court Social Services, or Department of Youth Rehabilitation Services; and

(4) The number of service providers providing training programs based on specific performance-based measures, including:

(A) A description of programs being offered; and

(B) The enrollment figures in each program.

(Apr. 6, 1982, D.C. Law 4-101, § 511c, as added Apr. 8, 2011, D.C. Law 18-370, § 522(b), 58 DCR 1008; Dec. 24, 2013, D.C. Law 20-61, § 5142, 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 substituted "Within 120 days of October 1, 2013" for "Within 60 days of January 19, 2011" in the introductory language; substituted "100 families" for "35 families" in the introductory language of (3); and substituted "Child and Family Services Agency, Department of Human Services, Court Social Services, or Department of Youth Rehabilitation Services" for "Court Social Services or Department of Youth Rehabilitation Services" in (3)(D).

Emergency legislation. — For temporary (90 days) amendment of this section, see §§ 5142 and 5152 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see §§ 5142 and 5152 of the Fiscal Year

2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-201.01.

Short title. — Section 5141 of D.C. Law 20-61 provided that Subtitle M of Title V of the act may be cited as the "Public Assistance Human Impact Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Section 5152 of D.C. Law 20-61 repealed section 5163 of the Temporary Assistance for Needy Families Time Limit Amendment Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025), as of October 1, 2013.

§ 4-205.15. Standards for inclusion in TANF assistance unit.

(a) An application on behalf of a dependent child shall include in the TANF assistance unit the following individuals, if living in the same household as the dependent child and otherwise eligible:

(1) The parent or parents of a dependent child, except that a parent who marries a person with whom the parent does not have any child in common may, at the parent's request, choose not to be included in the dependent child's assistance unit;

(1A) The step-parent of a dependent child, if there is a parent of the dependent child in the home who chooses to be included in the dependent child's assistance unit; and

(1B) Any dependent child of a step-parent who is included in a dependent step-child's assistance unit; and

(2) All blood-related, half-blooded-related, and adopted brothers and sisters of the dependent child who are themselves dependent children under age 18 or under 19 years of age and are full-time students in a secondary school (or in the equivalent level of vocational or technical training); and

(3) Repealed.

(b) For the purposes of subsection (a) of this section, the Mayor shall determine the meaning of the term "full-time student" and shall determine which vocational or technical training courses are equivalent to the level of secondary school.

(c) In order to be included in an TANF assistance unit under this section, a dependent child aged 16 or 17 years must be enrolled in a program of secondary education or vocational or technical training.

(d) An application on behalf of a dependent child may include in the TANF assistance unit a caretaker relative other than a parent, provided that neither parent is living in the home and the caretaker relative requests to be included, meets each eligibility requirement, and lives in the same household as the dependent child.

(e) Individuals who are ineligible to receive TANF, and who shall be excluded from the TANF assistance unit during the period of ineligibility, shall include:

(1) An individual who receives SSI benefits;

(2) An alien who is ineligible for TANF as a result of the deeming of a sponsor's income and resources to the alien pursuant to § 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 22, 1996 (110 Stat. 2105; 8 U.S.C. § 1631);

(3) An alien who is ineligible for TANF because the alien does not meet the citizenship and alienage requirements of § 4-205.24(a);

(4) An individual who is ineligible for TANF as the result of the imposition of a sanction; and

(5) An individual who is ineligible for TANF, pursuant to § 4-205.33, due to receipt of lump-sum income.

(6) Repealed.

(Apr. 6, 1982, D.C. Law 4-101, § 515, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(d), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(e), 32 DCR 3778; Sept. 26, 1995, D.C. Law 11-52, § 502(c), 42 DCR 3684; Apr. 17, 1999, D.C. Law 12-241, § 2(r), 46 DCR 905; Dec. 17, 2009, D.C. Law 18-94, § 2(b), 56 DCR 8521; Dec. 24, 2013, D.C. Law 20-61, § 5052(b), 60 DCR 12472.)

Section references. — This section is referenced in § 38-1207.01.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 substituted "or under 19 years of age and are full-time students in a secondary school (or in the equivalent level of vocational or technical training)" for "or age 18 and expected to complete high school before reaching age 19" in (a)(2); and substituted "the Mayor shall determine the meaning of the term 'full-time student' and shall determine which vocational or technical training courses are equivalent to the level of secondary school" for "the Mayor shall determine the meaning of the term 'full-time student', shall determine which vocational or technical training courses are equivalent to the level of secondary school, and shall determine which factors will be considered in deciding whether an individual may reasonably be expected to complete the program of study or training before reaching age 19" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 5052(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5052(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-201.01.

Short title. — Section 5051 of D.C. Law 20-61 provided that Subtitle F of Title V of the act may be cited as the "Department of Human Services Conforming Amendments Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-205.19a. Redetermination of eligibility.

(a) For purposes of §§ 4-205.19b, 4-205.19c, 4-205.19f and 4-205.19g, a TANF recipient shall be considered an applicant for TANF benefits at each time of redetermination of eligibility for TANF. When a current TANF recipient is considered to be an applicant pursuant to this subsection, the Mayor may require the individual to participate in a work activity other than job search or job readiness in order to comply with this section, and § 4-205.19c shall apply if the individual fails to comply with any such work activity that the Mayor may require.

(b) As part of the redetermination of eligibility, a TANF recipient shall be provided information about the POWER program and screened for POWER eligibility. TANF applicants and recipients shall be permitted to affirmatively submit applications for POWER.

(c) Repealed.

(d) The Mayor, or his designee, shall inform all TANF recipients and applicants of the eligibility criteria for POWER.

(e) Other than victims of domestic violence, pursuant to § 4-205.72a(a)(2)(A), no TANF recipients eligible for POWER pursuant to § 4-205.72a may receive case management services beyond the services currently being received on December 24, 2013, unless the Department of Human Services deems such services as necessary and funding is available.

(Apr. 6, 1982, D.C. Law 4-101, § 519a, as added Apr. 20, 1999, D.C. Law 12-241, § 2(w), 46 DCR 905; Sept. 20, 2012, D.C. Law 19-168, § 5162(c), 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 5153(d), 60 DCR 12472.)

Section references. — This section is referenced in § 4-205.72.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added the (a) designation; and added (b) to (d).

The 2013 amendment by D.C. Law 20-61 repealed (c); deleted "and TANF hardship extensions" from the end of (d); and added (e).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 5153(d) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5153(d) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-201.01.

Short title. — Section 5151 of D.C. Law 20-61 provided that Subtitle N of Title V of the act may be cited as the "Temporary Assistance for Needy Families Time Limit Amendment Act of 2013".

Editor's notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Section 5152 of D.C. Law 20-61 repealed D.C. Law 19-168, § 5163.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-205.19m. Reporting requirements.

The Mayor shall report and make public the following performance measures annually:

(1) By vendor program:

(A) The number of TANF work-eligible recipients and percentage of the TANF caseload who have participated in the specific vendor program, including the number and percentage of those recipients who have:

(i) Met their work participation requirements for at least one month during the reporting period;

(ii) Completed the education or training program; and

(iii) Have become employed.

(B) Of those who gained employment, the number and percentage of TANF recipients who remain employed and met work participation requirements, by month, for up to 6 months;

(C) Of those who exited TANF due to earnings, the number and percentage of TANF recipients who return to a vendor program after 3 months, 6 months, 12 months, and 18 months;

(2) The number of TANF recipients and percentage of the TANF caseload who:

(A) Have applied for a waiver from job search or job readiness activities, as defined in § 4-205.19b, and work activities, as defined in § 4-205.19d, due to domestic violence as referenced in § 4-205.19b(d)(3);

(B) Have been granted a waiver from job search or job readiness activities, pursuant to § 4-205.19b, and work activities due to domestic violence as referenced in § 4-205.19b(d)(3);

(C) Have been referred to treatment through domestic violence services pursuant to § 4-205.19b(d)(2); and

(D) Are receiving domestic violence services through a referral by the Mayor pursuant to § 4-205.19b(d)(2);

(3) The number of TANF recipients and percentage of the TANF caseload who have been:

(A) Referred to POWER pursuant to § 4-205.73(b);

(B) Approved for POWER; and

(C) Referred to and receive, to the extent such information is accessible and available, treatment services for substance abuse or physical or mental disabilities;

(4) The number of TANF recipients and percentage of the TANF caseload who are participating in each work activity listed in § 4-205.19c(c-1), including the number of TANF recipients and percentage of TANF caseload who have reported self-employment as their unsubsidized employment work activity;

(5) For the following activities, a list of organizations, with which TANF recipients have been placed and the number placed with each:

(A) Subsidized private sector employment;

(B) Subsidized public sector employment;

(C) Work experience;

(D) On-the-job-training;

(E) Community service;

(F) Vocational education training; and

(G) Job skills training directly related to employment;

(6) The number of TANF recipients and percentage of the TANF caseload who have:

(A) Been referred to the Tuition Assistance Program Initiative for TANF ("TAPIT");

(B) Been enrolled in TAPIT; and

(C) Successfully completed TAPIT;

(7) The number of TANF recipients and percentage of the TANF caseload who have:

(A) Been referred to the University of the District of Columbia Paths Program;

(B) Been enrolled in the UDC Paths Program; and

(C) Successfully completed the UDC Paths Program; and

(8) The number of TANF recipients and percentage of the TANF caseload who were not referred to work activities within 6 months and 12 months after a positive eligibility determination.

(Apr. 20, 1999, D.C. Law 4-101, § 519m, as added Apr. 8, 2011, D.C. Law 18-366, § 2(d), 58 DCR 981; Sept. 26, 2012, D.C. Law 19-171, § 32(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (2)(A).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

§ 4-205.19n. Family assessment plan.

Within 180 days of April 8, 2011, the Mayor shall submit to the Council a plan, with timetables and budget requirements, to assess every family and to offer supportive services and job training opportunities for the TANF program, starting with all present and subsequent families that have been on the program beyond 60 months, and to transition all families beyond 60 months from the program within 5 years.

(Apr. 20, 1999, D.C. Law 4-101, § 519n, as added Apr. 8, 2011, D.C. Law 18-366, § 2(e), 58 DCR 981; Sept. 26, 2012, D.C. Law 19-171, § 32(b), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 made a stylistic change in the section heading.

Legislative history of Law 19-171. — See note to § 4-205.19m.

§ 4-205.52. Determination of amount of public assistance payments for assistance unit; standards of assistance enumerated.

(a) To determine the TANF, POWER or GAC payment for an assistance unit, the Mayor shall subtract any income of the assistance unit, after applicable disregards, from the current payment level for a family that is the size of the assistance unit.

(b) Repealed.

(c) The standards of assistance are set forth in the following table and include a portion of basic costs of food, clothing, shelter, household and personal items, and certain transportation costs:

STANDARDS OF ASSISTANCE

Family Size	Standard of Assistance	Payment Level
1	$ 450.00	$ 239.00
2	560.00	298.00
3	712.00	379.00
4	870.00	463.00
5	1,002.00	533.00
6	1,178.00	627.00
7	1,352.00	719.00
8	1,494.00	795.00
9	1,642.00	874.00
10	1,786.00	950.00
11	1,884.00	1,002.00
12	2,024.00	1,077.00
13	2,116.00	1,126.00
14	2,232.00	1,187.00
15	2,316.00	1,232.00
16	2,432.00	1,294.00
17	2,668.00	1,419.00
18	2,730.00	1,452.00
19	2,786.00	1,482.00

(c-1) Repealed.

(c-2) The level of public assistance payment for assistance units subject to § 4-205.11b shall be equal to the current payment level for the assistance unit, established by subsection (d) of this section, less 20% after February 1, 2011.

(c-3) In addition to the reduction set forth in subsection (c-2) of this section, the following adjustments shall be made to the level of public assistance payment for assistance units subject to § 4-205.11b:

(1) For fiscal year 2014, a reduction of 25% of the fiscal year 2013 amount;

(2) For fiscal year 2015, a reduction of 41.7% of the fiscal year 2014 amount; and

(3) For fiscal year 2016 and thereafter, no benefits shall be provided.

(d) The table set forth in subsection (c) of this section shall apply to payments made after January 31, 1998. The level of public assistance payments for assistance units and the standards of assistance in subsection (c) of this section may be adjusted by the Mayor through promulgation of a rule in accordance with the rulemaking provisions of subchapter I of Chapter 5 of Title 2.

(e) A recipient of public assistance may not make a claim for any cost-of-living adjustment in assistance payments that have not been paid prior to December 29, 1994, and would have been paid but for the enactment of the Public Assistance Act of 1982 Budget Conformity Amendment Act of 1991, effective August 17, 1991 (D.C. Law 9-27; 38 DCR 5794).

(f) A recipient of public assistance may not make a claim for any adjustment in assistance payments that have not been paid prior to December 29, 1994,

and would have been paid but for the enactment of the Public Assistance Act of 1982 Budget Conformity Amendment Act of 1991, effective August 17, 1991 (D.C. Law 9-27; 38 DCR 5794).

(Apr. 6, 1982, D.C. Law 4-101, § 552, 29 DCR 1060; May 19, 1982, D.C. Law 4-108, § 3, 29 DCR 1413; Aug. 10, 1984, D.C. Law 5-100, § 2, 31 DCR 2896; Apr. 11, 1986, D.C. Law 6-106, § 2, 33 DCR 1165; June 25, 1986, D.C. Law 6-124, § 2(c), 33 DCR 2940; Mar. 11, 1988, D.C. Law 7-86, § 2(a), 35 DCR 140; Aug. 17, 1991, D.C. Law 9-27, § 2(g), 38 DCR 4205; Sept. 26, 1995, D.C. Law 11-52, § 502(e), 42 DCR 3684; Oct. 27, 1995, D.C. Law 11-72, § 201(f), 42 DCR 4728; Apr. 18, 1996, D.C. Law 11-110, § 9(b), 43 DCR 530; Apr. 9, 1997, D.C. Law 11-199, § 302, 43 DCR 4569; Aug. 1, 1996, D.C. Law 11-152, § 101(a), 43 DCR 2978; Apr. 9, 1997, D.C. Law 11-198, § 302, 43 DCR 4569; Apr. 20, 1999, D.C. Law 12-241, § 2(qq), 46 DCR 905; Apr. 8, 2011, D.C. Law 18-370, § 522(f), 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 5022, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 5172, 59 DCR 8025.)

Section references. — This section is referenced in § 4-204.07, § 4-205.10, § 4-205.11b, and § 4-205.78.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168, in (c-3)(1), substituted "fiscal year 2014" for "fiscal year 2013" and "fiscal year 2013" for "fiscal year 2012"; in (c-3)(2), substituted "fiscal year 2015" for "fiscal year 2014" and "fiscal year 2014" for "fiscal year 2013"; and substituted "fiscal year 2016" for "fiscal year 2015" in (c-3)(3).

Temporary Amendment of Section. — Section 2 of D.C. Law 19-221 amended (c-3) section to read as follows:

"(c-3) In addition to the reduction set forth in subsection (c-2) of this section, the following adjustments shall be made to the level of public assistance payment for assistance units subject to § 4-205.11b:

"(1) For the period beginning April 1, 2013, and ending September 30, 2013, a reduction of 25% of the fiscal year 2012 amount;

"(2) For fiscal year 2014, a reduction of 41.7% of the amount established by paragraph (1) of this subsection; and

"(3) For fiscal year 2015 and thereafter, no benefits shall be provided."

Section 4(b) of D.C. Law 19-221 provided that the act shall expire after 225 days of its having taken effect.

For temporary (225 days) amendment of this section, see § 2 of the Temporary Assistance for Needy Families Time Extension Temporary Amendment Act of 2013 (D.C. Law 20-7, June 22, 2013, 60 DCR 6397, 20 DCSTAT 1275).

Emergency legislation.

For temporary amendment of (c-3), see § 2 of the Temporary Assistance for Needy Families Time Delay Emergency Amendment Act of 2012 (D.C. Act 19-450, September 20, 2012, 59 DCR 11093).

For temporary amendment of (c-3), see § 2 of the Temporary Assistance for Needy Families Time Delay Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-570, December 20, 2012, 60 DCR 95.

For temporary (90 days) amendment of this section, see § 2 of the Temporary Assistance for Needy Families Time Extension Emergency Act of 2013 (D.C. Act 20-26, March 14, 2013, 60 DCR 4614, 20 DCSTAT 489).

For temporary (90 days) amendment of this section, see § 2 of the Temporary Assistance for Needy Families Time Extension Congressional Review Emergency Act of 2013 (D.C. Act 20-86, June 19, 2013, 60 DCR 9540, 20 DCSTAT 1445).

For temporary (90 days) repeal of D.C. Law 19-168, § 5173, see § 5122 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 19-168, § 5173, see § 5122 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 4-202.05.

Short title.

Section 5121 of D.C. Law 20-61 provided that Subtitle K of Title V of the act may be cited as the "District of Columbia Public Assistance Amendment Act of 2013".

Editor's notes.

Section 5173 of D.C. Law 19-168 provided that § 5172 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Section 5122 D.C. Law 20-61 repealed D.C. Law 19-168, § 5173.

§ 4-205.59. Effect of pending hearing.

Section references. — This section is referenced in § 4-205.54.

LAW REVIEWS AND JOURNAL COMMENTARIES

The New Law Governing General Public Assistance. Sarah Mulkern, 1 D.C.L.Rev. 171, (1992).

§ 4-205.72. POWER — Establishment; eligibility.

(a) There is established a Program on Work, Employment, and Responsibility ("POWER"), eligibility for which shall be the same as the factors, standards, and methodology for determining eligibility for TANF, as set forth in this subchapter, except as provided by subsections (b), (c), and (d) of this section, and §§ 4-205.73 through 4-205.77.

(b) An assistance unit shall be eligible for POWER under the following circumstances:

(1) The head of the assistance unit is the parent of a minor child;

(2) The head of the assistance unit is physically or mentally incapacitated; and

(3) The physical or mental incapacity of the head of the assistance unit rises to the level of incapacity outlined by subsection (c) of this section.

(c) For the purposes of subsection (b) of this section, physical and mental incapacity must be verified by competent medical evidence and when considered with the head of the assistance unit's age, prior work experience, education, and other factors bearing on the head of the assistance unit's ability to work, as determined relevant by the Mayor:

(1) Substantially precludes the ability of the head of the assistance unit to work or to participate in job search or job readiness activities; and

(2) Is expected to last more than 30 days.

(d) A person is ineligible for POWER if that person receives:

(1) Temporary Assistance for Needy Families;

(2) Supplemental Security Income; or

(3) Unemployment Compensation benefits.

(e) Sections 4-205.11a, 4-205.11b, 4-205.19a through 4-205.19f, 4-205.19j, and 4-205.19k, shall not apply to recipients of POWER benefits.

(Apr. 6, 1982, D.C. Law 4-101, § 572, as added Apr. 20, 1999, D.C. Law 12-241, § 4(g), 46 DCR 905; Sept. 20, 2012, D.C. Law 19-168, § 5162(d), 59 DCR 8025.)

Section references. — This section is referenced in § 4-201.01, § 4-205.72a, § 4-205.74, and § 4-205.76.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 substituted "4-205.11a, 4-205.11b, 4-205.19j" for "4-205.11a, and 4-205.19a" in (e).

Legislative history of Law 19-168. — See note to § 4-202.05.

Short title. — Section 5151 of D.C. Law

20-61 provided that Subtitle N of Title V of the act may be cited as the "Temporary Assistance for Needy Families Time Limit Amendment Act of 2013".

Editor's notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Section 5152 of D.C. Law 20-61 repealed D.C. Law 19-168, § 5163.

§ 4-205.72a. POWER — Additional eligibility.

(a) In addition to the circumstances set forth in § 4-205.72, beginning October 1, 2013, an assistance unit shall be eligible for POWER if the head of the assistance unit:

(1)(A) Is the parent of a minor child; and

(B) Is needed in the home, due to medical necessity, to care for a household member who is physically or mentally incapacitated as described in § 4-205.72(c);

(2)(A) Is the parent of a minor child;

(B) Has been determined by the Department to be a victim of domestic violence who is receiving relevant support counseling or services; and

(C) Has received a domestic violence assessment by the Department or the Department's designee that resulted in a recommendation that the work requirement or child support cooperation be waived;

(3) Is a pregnant or parenting teen who:

(A) Has been certified by the Department as being exempt from the home living requirements under § 4-205.63(b);

(B) Is enrolled in high school or a General Education Equivalency Degree program;

(C) Meets her or his work requirements in compliance with her or his TANF Individual Responsibility Plan or any equivalent plan developed during her or his participation in POWER; and

(D) Is less than 19 years old;

(4) Repealed;

(5) Is a parent or caretaker who is 60 years of age or older; or

(6) Is the head of an assistance unit who is meeting the full requirements of his or her Individual Responsibility Plan and can show that he or she is enrolled in an accredited postsecondary education program or a Department of Employment Services approved job training program in which he or she is working towards the attainment of a degree, certificate, or official credential.

(b) An assistance unit's eligibility for POWER pursuant to subsection (a) of this section shall be subject to annual review and redetermination.

(Apr. 6, 1982, D.C. Law 4-101, § 572a, as added Sept. 20, 2012, D.C. Law 19-168, § 5162(e), 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 5153(c), 60 DCR 12472.)

Section references. — This section is referenced in § 4-205.19a and § 4-205.74.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

The 2013 amendment by D.C. Law 20-61 substituted "October 1, 2013" for "October 1, 2012" in the introductory paragraph of (a); repealed (a)(4); added (a)(5) and (a)(6); and made related changes.

Temporary legislation. — For temporary (225 days) amendment of section, see § 4 of the Fiscal Year 2014 Budget Support Technical Clarification Temporary Amendment Act of 2013 (D.C. Law 20-56, December 13, 2013, 60 DCR 15165).

Emergency legislation. — For temporary (90 days) amendment of this section, see §§ 4 and 6 of the Fiscal Year 2014 Budget Support Technical Clarification Emergency Amendment Act of 2013 (D.C. Act 20-180, October 4, 2013, 60 DCR 14949).

For temporary (90 days) amendment of this section, see § 5153(c) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5153(c) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 4-202.05.

Legislative history of Law 20-61. — See note to § 4-201.01.

Short title. — Section 5151 of D.C. Law 20-61 provided that Subtitle N of Title V of the act may be cited as the "Temporary Assistance for Needy Families Time Limit Amendment Act of 2013".

Editor's notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Section 5152 of D.C. Law 20-61 repealed D.C. Law 19-168, § 5163.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-205.74. POWER — Medical review.

(a) After the Mayor determines that a TANF applicant or recipient may be considered for POWER eligibility, pursuant to § 4-205.72, the Mayor shall provide a medical review of the applicant or recipient to determine whether the applicant or recipient is incapacitated.

(a-1) After the Mayor determines that a TANF applicant or recipient may be considered for POWER eligibility, pursuant to § 4-205.72a, the Mayor shall provide a review of the applicant or recipient to determine whether the applicant or recipient is eligible for POWER.

(b) The applicant or recipient shall cooperate with obtaining the medical review as a condition of eligibility for POWER.

(Apr. 6, 1982, D.C. Law 4-101, § 574, as added Apr. 20, 1999, D.C. Law 12-241, § 4(g), 46 DCR 905; Sept. 20, 2012, D.C. Law 19-168, § 5162(f), 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added "pursuant to § 4-205.72" in (a); and added (a-1).

Legislative history of Law 19-168. — See note to § 4-202.05.

Short title. — Section 5151 of D.C. Law 20-61 provided that Subtitle N of Title V of the act may be cited as the "Temporary Assistance for Needy Families Time Limit Amendment Act of 2013".

Editor's notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Section 5152 of D.C. Law 20-61 repealed D.C. Law 19-168, § 5163.

Subchapter XII. Payments to Incapacitated Individuals.

§ 4-212.03. Protective payments on behalf of adult recipients.

(a) The Mayor may authorize protective payments on behalf of adult recipients of public assistance under the following conditions:

(1) When there has been made clear determination that a needy individual has, by reason of physical or mental impairment, such inability to manage funds that making payments to him would be contrary to his or her welfare, as evidenced by his or her repeated failure to pay for rent and other essentials, exploitation of him or her in money matters by other persons, and medical or psychological reports indicating severe intellectual disability, disorientation, or memory loss; and

(2) When the individual selected as payee has shown an interest in and concern for the welfare of the recipient, is accessible to the recipient, has the ability to establish and maintain a positive friendly relationship with the recipient, and is dependable and able to use the assistance payment in the best interests of the recipient. Members of the staff of the Mayor or persons whose selection might create a conflict of interest, such as grocers or landlords, shall not be selected as payees.

(b) The adult recipient shall be given the opportunity for a fair hearing with respect to any decision to make or continue protective payments or the selection of the payee.

(c) The Mayor will undertake and continue special efforts to improve, to the extent possible, the recipient's capacity for self-care and his or her ability to manage funds.

(d) Reconsideration of the need for protective payments shall be made as indicated by the recipient's circumstances and, in any event, at least every 6 months.

(e) The Mayor shall initiate court proceedings for the judicial appointment of a guardian or other legal representative whenever it appears that such an appointment will best serve the interests of the recipient.

(f) The Mayor shall authorize protective payments only when the Mayor can meet total need for all cases based on the current standards for requirements.

(g) Repealed.

(Apr. 6, 1982, D.C. Law 4-101, § 1203, 29 DCR 1060; Mar. 20, 1998, D.C. Law 12-60, § 701(x), 44 DCR 7378; Apr. 20, 1999, D.C. Law 12-241, § 2(rrr), 46 DCR 905; Sept. 26, 2012, D.C. Law 19-169, § 9, 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "severe intellectual disability" for "severe mental retardation" in (a)(1).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 2A. GRANDPARENT CAREGIVERS PILOT PROGRAM.

Sec.
4-251.03. Eligibility.

§ 4-251.03. Eligibility.

(a) A grandparent may be eligible to receive subsidy payments under this section if:

(1) The grandparent has been the child's primary caregiver for at least the previous 6 months.

(2) The child has resided in the grandparent's home for at least the previous 6 months;

(3) The child's parent has not resided in the grandparent's home for at least the previous 6 months; provided, that a parent may reside in the home without disqualifying the grandparent from receiving a subsidy if:

(A) The parent has designated the grandparent to be the child's standby guardian pursuant to Chapter 48 of Title 16;

(B) The parent is a minor enrolled in school; or

(C) The parent is a minor with a medically verifiable disability under criteria that shall be prescribed by the Mayor pursuant to § 4-251.06.

(4) The grandparent, and all adults residing in the grandparent's home, has submitted to a criminal background check;

(5) The grandparent's household income is under 200 percent of the federally-defined poverty level;

(6) The grandparent is a resident of the District as defined by § 4-205.03;

(7) The grandparent has applied for Temporary Assistance for Needy Families benefits for the child;

(8) The grandparent has entered into a subsidy agreement that includes a provision that no payments received under the agreement shall inure to the benefit of the child's parent but shall be solely for the benefit of the child;

(8A) The grandparent is not currently receiving a guardianship or adoption subsidy for the child;

(9) The grandparent has provided a signed statement, sworn under penalty of perjury, that the information provided to establish eligibility pursuant to this section, or any rules promulgated pursuant to § 4-251.06, is true and accurate to the best belief of the grandparent applicant; and

(10) The grandparent has met any additional requirements prescribed by the Mayor pursuant to rules issued under § 4-251.06.

(a-1) The Mayor may waive the eligibility requirements established in subsection (a)(1) and (2) of this section if:

(1) The Agency determines that the child is at risk of removal from the parent, guardian, or custodian pursuant to § 4-1301.07;

(2) The parent, guardian, or custodian permits the grandparent to be the child's primary caregiver; and

(3) The parent, guardian, or custodian permits the child to reside with the grandparent.

(b)(1) The Mayor shall recertify the eligibility of each grandparent receiving a subsidy on at least an annual basis.

(2) For the purposes of the recertification, a grandparent may be required to provide a signed statement, sworn under penalty of perjury, that the information provided to establish continued eligibility pursuant to this section, or any rules promulgated pursuant to § 4-251.06, remains true and accurate to the best belief of the grandparent.

(c)(1) The Mayor shall terminate subsidy payments to a grandparent at any time if:

(A) The Mayor determines the grandparent no longer meets the eligibility requirements established by this section, or by rules issued under § 4-251.06; or

(B) There is a substantiated finding of child abuse or neglect against the grandparent caregiver resulting in the removal of the child from the grandparent's home.

(2) A grandparent whose subsidy payments are terminated as a result of the removal of the child from the grandparent's home may reapply if the child has been returned to the grandparent's home.

(d) Eligibility for subsidy payments under this section may continue until the child reaches 18 years of age.

(e) An applicant whose application for a subsidy has been denied or whose subsidy has been terminated shall be entitled to a hearing under the applicable provisions of Chapter 5 of Title 2; provided that a grandparent shall not be entitled to a hearing if the denial or termination of a subsidy is based upon the unavailability of appropriated funds.

(f) Any statement under this section made with knowledge that the information set forth therein is false shall be subject to prosecution as a false statement under § 22-2405(a).

(Mar. 8, 2006, D.C. Law 16-69, § 103, 53 DCR 54; Sept. 20, 2007, D.C. Law 17-21, § 3(a), 54 DCR 6835; Apr. 20, 2013, D.C. Law 19-261, § 2, 60 DCR 1296.)

Section references. — This section is referenced in § 4-251.05.

Effect of amendments.

The 2013 amendment by D.C. Law 19-261 added (a-1).

Emergency legislation.

For temporary addition of (a-1), see § 2 of the Grandparent Caregivers Program Emergency Amendment Act of 2012 (D.C. Act 19-571, December 20, 2012, 60 DCR 97.

For temporary (90 days) amendment of this section, see § 2 of the Grandparent Caregivers Program Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-37, March 19, 2013, 60 DCR 4659, 20 DCSTAT 520).

Legislative history of Law 19-261. — Law 19-261, the "Grandparent Caregivers Program Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-1000. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 14, 2013, it was assigned Act No. 19-613 and transmitted to Congress for its review. D.C. Law 19-261 became effective on Apr. 20, 2013.

CHAPTER 3. ADOPTION PROGRAMS.

Subchapter I. General.

§ 4-301. Adoption subsidy payments.

Section references. — This section is referenced in § 4-114, § 4-302, § 4-322, § 4-345, § 16-307, and § 16-309.

LAW REVIEWS AND JOURNAL COMMENTARIES

Constitutional Law: Race As A Factor In Interracial Adoptions, 32 Catholic University Law Review 1022.

CHAPTER 5. VICTIMS OF CRIME.

Subchapter III. Domestic Violence Hotline

Sec.
4-551. Definitions.
4-552. Domestic Violence Hotline.
4-553. Task force.

Subchapter III. Domestic Violence Hotline.

§ 4-551. Definitions.

For the purposes of this subchapter, the term:

(1) "Domestic violence" means a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner, dating partner, or family member. The term "domestic violence" includes physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This consists of any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

(2) "Domestic violence counselor" shall have the same meaning as provided in § 14-310(a)(2).

(3) "Domestic violence program" shall have the same meaning as provided in § 14-310(a)(3).

(4) "Hotline" means the Domestic Violence Hotline program established by § 4-552.

(5) "Office" means the Office of Victim Services, established by Mayor's Order 2004-119, issued July 19, 2004 (51 DCR 7997).

(Dec. 24, 2013, D.C. Law 20-61, § 3032, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 3032 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this

section, see § 3032 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 3031 of D.C. Law 20-61 provided that Subtitle D of Title III of the act may be cited as the "Domestic Violence Hotline Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-552. Domestic Violence Hotline.

(a) The Office shall establish the Domestic Violence Hotline to provide assistance for victims and potential victims of domestic violence beginning October 1, 2014.

(b)(1) The Hotline shall:

(A) Be operated by a domestic violence program funded and supported by the Office;

(B) Provide a direct toll-free number that accepts calls and text messages;

(C) Be directly available to callers, without an intermediary agency;

(D) Be available on a 24-hour basis;

(E) Provide live assistance by domestic violence counselors; and

(F) Offer anonymity and confidentiality to enable a victim or a friend or family member of a victim to seek support without giving his or her legal name.

(2) The requirements of paragraph (1)(F) of this subsection shall not be construed to limit or supersede any mandatory reporting requirements under District law.

(c) The Office shall develop and implement an outreach campaign to educate District residents about the Hotline.

(Dec. 24, 2013, D.C. Law 20-61, § 3033, 60 DCR 12472.)

Section references. — This section is referenced in § 4-551.

Emergency legislation. — For temporary (90 days) addition of this section, see § 3033 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 3033 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-551.

Short title. — Section 3031 of D.C. Law 20-61 provided that Subtitle D of Title III of the act may be cited as the "Domestic Violence Hotline Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-553. Task force.

(a) Beginning October 1, 2013, the Office shall establish a task force to:

(1) Assess staff and technology needs of the Hotline; and

(2) Develop mechanisms for administration of the Hotline; and

(3) Develop standards that coincide with the standards used by the existing domestic violence first responder line.

(b) The task force shall include representatives from the D.C. Coalition Against Domestic Violence, governmental victim services programs, and domestic violence programs.

(c) By January 30, 2014, the task force shall transmit to the Office and to the Office of the Secretary to the Council a report that includes the assessments and developments completed pursuant to subsection (a) of this section.

(Dec. 24, 2013, D.C. Law 20-61, § 3034, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 3034 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 3034 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-551.

Short title. — Section 3031 of D.C. Law 20-61 provided that Subtitle D of Title III of the act may be cited as the "Domestic Violence Hotline Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

CHAPTER 7A. SERVICES FOR HOMELESS INDIVIDUALS AND FAMILIES.

Subchapter I. Definitions

Subchapter II. Interagency Council on Homelessness

Subchapter III. Continuum of Care

Subchapter IV. Provision of Services for Homeless Individuals and Families

Part B

Client Rights and Responsibilities

Part C

Provider Standards

Part D

Provider Requirements

Subchapter V. No Entitlement; Limited Use of Funds

Subchapter VI. Additional Mayoral Authority

Subchapter I. Definitions.

§ 4-751.01. Definitions.

For the purposes of this chapter, the term:

(1) "Administrative Procedure Act" or "APA" means Chapter 5 of Title 2.

(2) "Adult" means any individual who:

(A) Has reached the age of majority under District law as defined in § 46-101; or

(B) Qualifies as an emancipated minor under District law.

(3) "Apartment style" means a housing unit with:

(A) Separate cooking facilities and other basic necessities to enable families to prepare and consume meals;

(B) Separate bathroom facilities for the use of the family; and

(C) Separate sleeping quarters for adults and minor children in accordance with the occupancy standards of Title 14 of the District of Columbia Municipal Regulations (Housing).

(4) "Appropriate permanent housing" means permanent housing that does not jeopardize the health, safety, or welfare of its occupants, meets the District's building code requirements, and is affordable for the client.

(5) "Appropriately trained and qualified" means having received specialized training designed to teach the skills necessary to successfully perform one's job and to work compassionately with individuals and families who are homeless or at imminent risk of becoming homeless.

(6) "Basic necessities" means a dinette set, refrigerator, stove, exhaust fan or window, storage cabinets, cookware, flatware, and tableware.

(7) "Client" means an individual or family seeking, receiving, or eligible for services from a program covered by § 4-754.01.

(8) "Continuum of Care" means the comprehensive system of services for individuals and families who are homeless or at imminent risk of becoming homeless and designed to serve clients based on their individual level of need. The Continuum of Care may include crisis intervention, outreach and assessment services, shelter, transitional housing, permanent supportive housing, and supportive services.

(9) "Crisis intervention" means assistance to prevent individuals and families from becoming homeless, which may include, but need not be limited to, cash assistance for security deposits, rent or mortgage payments, utility assistance, credit counseling, mediation with landlords, and supportive services.

(10) "Culturally competent" means the ability of a provider to deliver or ensure access to services in a manner that effectively responds to the languages, values, and practices present in the various cultures of its clients so the provider can respond to the individual needs of each client.

(11) "Day program" means a facility that provides open access to structured activities during set hours of the day to meet the supportive services needs of individuals and families who are homeless or at imminent risk of becoming homeless.

(12) "Department" means the Department of Human Services.

(13) "District" means the District of Columbia government, its agents, or its designees.

(14) "Drop-in center" means a facility that delivers supportive services that may include food, clothing, showers, medical services, and employment services.

(15) "Drug" means a controlled substance as defined in § 48-901.02(4), or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1242; 21 U.S.C. § 801 et seq.).

(16) "Family" means:

(A) A group of individuals with at least one minor or dependent child, regardless of blood relationship, age, or marriage, whose history and statements reasonably tend to demonstrate that they intend to remain together as a family unit; or

(B) A pregnant woman in her third trimester.

(17) "Group home" means a housing unit with:

(A) Sleeping quarters that may be shared;

(B) Shared cooking and bathroom facilities; and

(C) Other basic necessities to enable individuals or families to prepare and consume meals.

(17A) "Gender identity or expression" shall have the same meaning as provided in § 2-1401.02(12A).

(18) "Homeless" means:

(A) Lacking a fixed, regular residence that provides safe housing, and lacking the financial means to acquire such a residence immediately, including any individual or family who is fleeing, or is attempting to flee, domestic violence and who has no other residence and lacks the resources or support networks to obtain safe housing; or

(B) Having a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations; or

(ii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(19) "Housing First" means a program that provides clients with immediate access to independent permanent housing and supportive services without prerequisites for sobriety or participation in psychiatric treatment. Clients in Housing First programs may choose the frequency and type of supportive services they receive and refusal of services will have no consequence for their access to housing or on continuation of their housing and supportive services.

(20) "Hyperthermia shelter" means a public or private building that the District shall make available, for the purpose of providing shelter to individuals or families who are homeless and cannot access other shelter, whenever the actual or forecasted temperature or heat index rises above 95 degrees Fahrenheit. The term "hyperthermia shelter" does not include overnight shelter.

(21) "Hypothermia shelter" means a public or private building that the District shall make available, for the purpose of providing shelter to individ-

uals or families who are homeless and cannot access other shelter, whenever the actual or forecasted temperature, including the wind chill factor, falls below 32 degrees Fahrenheit.

(22) "Individual with a disability" means a person with a physical or mental impairment that substantially limits the major life activities of the person.

(23) "Imminent risk of becoming homeless" means the likelihood that an individual's or family's circumstances will cause the individual or family to become homeless in the absence of prompt government intervention.

(24) "Imminent threat to the health or safety" means an act or credible threat of violence on the grounds of a shelter or supportive housing facility.

(25) "Interagency Council" means the Interagency Council on Homelessness established pursuant to § 4-752.01.

(25A) "LGBTQ" means a person who self-identifies as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression.

(26) "Low barrier shelter" means an overnight housing accommodation for individuals who are homeless, provided directly by, or through contract with or grant from, the District, for the purpose of providing shelter to individuals without imposition of identification, time limits, or other program requirements;

(27) "Member agency" or "member agencies" means the District agencies or divisions thereof represented on the Interagency Council pursuant to § 4-752.01(b).

(27A) "Office" means the Office of Shelter Monitoring established pursuant to § 4-754.51.

(28) "Permanent supportive housing" means supportive housing for an unrestricted period of time for individuals and families who were once homeless and continue to be at imminent risk of becoming homeless, including persons with disabilities as defined in 24 C.F.R. § 582.5, for whom self-sufficient living may be unlikely and whose care can be supported through public funds.

(29) "Program Rules" means the set of provider rules, client rights, and complaint and appeal procedures, including those enumerated in this chapter, proposed by a particular provider for the purpose of governing the behavior and treatment of its clients and approved by the Mayor subject to § 4-754.32.

(30) "Provider" means an individual or entity within the Continuum of Care that operates a program covered by § 4-754.01.

(31) "Public assistance" means government-funded payments in or by money, medical care, remedial care, shelter, goods or services to, or for the benefit of, needy persons.

(31A) "Rapid Re-Housing" means a program that provides a homeless individual or family with financial assistance to obtain permanent housing, by providing some or all of a security deposit, first month's rent, short-term rental subsidy, and supportive services to help the recipient become self-sufficient.

(32) "Resident of the District" means an individual or family who:

(A) Is not receiving locally administered public assistance from a jurisdiction other than the District;

(B) Is living in the District voluntarily and not for a temporary purpose and who has no intention of presently moving from the District, which shall be determined and applied in accordance with § 4-205.03; and

(C) Demonstrates residence by providing:

(i) A mailing address in the District, valid within the last 2 years;

(ii) Evidence that the individual or family has applied or is receiving public assistance from the District;

(iii) Evidence that the individual or a family member is attending school in the District; or

(iv) Written verification by a verifier who attests, to the best of the verifier's knowledge, that the individual or family lives in the District voluntarily and not for a temporary purpose and has no intention of presently moving from the District.

(32A) "Safe housing" means housing that does not jeopardize the health, safety, or welfare of its occupants and that permits access to electricity, heat, and running water for the benefit of occupants.

(33) "Sanction" means an adverse action taken by a provider affecting the delivery of services to a client, and may include loss of privileges or denial, reduction, delay, transfer for inappropriate or punitive reasons, suspension, or termination of services.

(34) "Service plan" means a written plan collaboratively developed and agreed upon by both the provider and the client, consisting of time-specific goals and objectives designed to promote self-sufficiency and attainment of permanent housing and based on the client's individually assessed needs, desires, strengths, resources, and limitations.

(35) "Severe weather conditions" means the outdoor conditions whenever the actual or forecasted temperature, including the wind chill factor or heat index, falls below 32 degrees Fahrenheit or rises above 95 degrees Fahrenheit.

(36) "Severe weather shelter" means hyperthermia shelter or hypothermia shelter.

(37) "Shelter" means severe weather shelter, low barrier shelter, and temporary shelter.

(38) "Supportive housing" means transitional housing and permanent supportive housing.

(39) "Supportive services" means services addressing employment, physical health, mental health, alcohol and other substance abuse recovery, child care, transportation, case management, and other health and social service needs which, if unmet, may be barriers to obtaining or maintaining permanent housing.

(40) "Temporary shelter" means:

(A) A housing accommodation for individuals who are homeless that is open either 24 hours or at least 12 hours each day, other than a severe weather shelter or low barrier shelter, provided directly by, or through contract with or grant from, the District, for the purpose of providing shelter and supportive services; or

(B) A 24-hour apartment-style housing accommodation for individuals or families who are homeless, other than a severe weather shelter, provided

directly by, or through contract with or grant from, the District, for the purpose of providing shelter and supportive services.

(41) "Transitional housing" means a 24-hour housing accommodation, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 2 years or a longer period approved by the provider, provided directly by, or through contract with or grant from, the District, for individuals and families who:

(A) Are homeless;

(B) Require a structured program of supportive services for less than or equal to 2 years or a longer period approved by the provider in order to prepare for self-sufficient living in permanent housing; and

(C) Consent to a case management plan developed collaboratively with the provider.

(41A) "Verifier" means a District resident or a provider who knows where an individual or family seeking shelter lives and who produces evidence of his or her employment as a provider in the case of a provider, or own District residency in the case of a District resident by providing a:

(A) Valid District driver's license or nondriver's identification;

(B) District voter registration card;

(C) Valid lease, rental agreement, rent receipt, deed, settlement papers, or mortgage statement for a residence in the District;

(D) Valid homeowner's or renter's insurance policy for a residence in the District;

(E) District property tax bill issued within the last 60 days;

(F) Utility bill for water, gas, electric, oil, cable, or a land-line telephone issued within the last 60 days; or

(G) Pay stub issued within the last 30 days showing a District address and District withholding taxes.

(42) "Weapon" means any pistol or other firearm (or imitation thereof), or other dangerous or deadly weapon, including a sawed-off shot gun, shot gun, machine gun, rifle, dirk, bowie knife, butcher knife, switch blade knife, razor, black jack, billy club or metallic or other false knuckles, as referenced in § 22-4502, and any air gun, air rifle, canon, torpedo, bean shooter, sling, projectile, dart, BB gun, spring gun, blow gun, other dangerous missile or explosive, or other dangerous weapon or ammunition of any character, as referenced in Chapter 23 of Title 24 of the District of Columbia Municipal Regulations.

(43) "Youth" means a person who is under 24 years of age.

(Oct. 22, 2005, D.C. Law 16-35, § 2, 52 DCR 8113; Mar. 14, 2007, D.C. Law 16-296, § 2(b), 54 DCR 1097; June 25, 2008, D.C. Law 17-177, § 7(a), 55 DCR 3696; Apr. 8, 2011, D.C. Law 18-367, § 2(a), 58 DCR 987; Dec. 24, 2013, D.C. Law 20-61, § 5182(a), 60 DCR 12472; May 3, 2014, D.C. Law 20-100, § 2(a), 61 DCR 1873.)

Section references. — This section is referenced in § 4-753.01, § 4-753.02, § 4-1345.01, and § 7-761.05.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 added "including any individual or family who

is fleeing, or is attempting to flee, domestic violence and who has no other residence and lacks the resources or support networks to obtain safe housing" in (18)(A); added (31A); added "the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 2 years or a longer period approved by the provider" in the introductory language of (41); and substituted "less than or equal to 2 years or a longer period approved by the provider" for "up to 2 years or as long as necessary" in (41)(B).

The 2014 amendment by D.C. Law 20-100 added (25A) and (43).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 5182(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5182(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Legislative history of Law 20-100. — Law 20-100, the "LGBTQ Homeless Youth Reform Amendment Act of 2014," was introduced in Council and assigned Bill No. 20-51. The Bill was adopted on first and second readings on January 7, 2014, and February 4, 2014, respectively. Signed by the Mayor on February 28, 2014, it was assigned Act No. 20-288 and transmitted to Congress for its review. D.C. Law 20-100 became effective on May 3, 2014.

Short title. — Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the "Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

CASE NOTES

Conditions for shelter.

While the complaint alleged that unspecified former shelter residents and other homeless in the area were denied shelter during conditions covered by D.C. Code § 4-751.01(35), the complaint pointedly did not allege that any of the current or proposed plaintiffs were among those denied shelter during that night, nor did any of the declarations submitted by the plaintiffs make such a claim, so they could not prevail on any claim under the District of Columbia's Homeless Services Reform Act (HSRA), D.C. Code § 4-751.01 et seq., based on the denial of shelter. Boykin v. Gray, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 143580 (D.D.C. Oct. 4, 2012).

Subchapter II. Interagency Council on Homelessness.

§ 4-752.01. Establishment of Interagency Council on Homelessness.

(a) There is established in the District the Interagency Council on Homelessness for the purpose of facilitating interagency, cabinet-level leadership in planning, policymaking, program development, provider monitoring, and budgeting for the Continuum of Care of homeless services.

(b) The Interagency Council is composed of:

(1) The City Administrator, who shall serve as chairperson of the Interagency Council;

(1A) The Director to End Homelessness, who shall assist the City Administrator in leading and coordinating the Interagency Council;

(2) The administrative head of each of the following entities or divisions thereof:

(A) Department of Human Services;

(B) Department of Mental Health;

(C) Child and Family Services Agency;
(D) Department of Housing and Community Development;
(E) Department of Health;
(F) District of Columbia Housing Authority;
(G) Department of Corrections;
(H) Department of Employment Services;
(I) Office of the State Superintendent of Education;
(J) Homeland Security and Emergency Management Agency;
(K) Department of General Services;
(L) Metropolitan Police Department; and
(M) Office of Gay, Lesbian, Bisexual, and Transgender Affairs;

(3) A representative of any private entity designated to approve or allocate any grants or contracts, on behalf of the Mayor, for services within the Continuum of Care;

(4) A representative from a minimum of 4 and a maximum of 10 organizations that are providing services within the Continuum of Care;

(5) A minimum of 2 and a maximum of 5 homeless or formerly homeless individuals;

(6) A minimum of 2 and a maximum of 5 advocates for the District of Columbia's homeless population;

(7) The Chairman of the Council, or his or her designee, and the Chairman of the committee of the Council having purview over homeless services, or his or her designee, both of whom shall be non-voting members; and

(8) The administrative head of the Office of Shelter Monitoring, who shall be a non-voting member.

(c) All non-government members of the Interagency Council described in subsections (b)(4)-(6) of this section shall be nominated for appointment by the Mayor and approved by the Council. The Mayor shall transmit to the Council, within 90 days of October 22, 2005, nominations of each non-government member of the Interagency Council for a 60-day period of review, excluding days of Council recess. If the Council does not approve or disapprove a nomination by resolution within the 60-day review period, the nomination shall be deemed approved.

(Oct. 22, 2005, D.C. Law 16-35, § 4, 52 DCR 8113; Mar. 14, 2007, D.C. Law 16-262, § 405, 54 DCR 794; Mar. 14, 2007, D.C. Law 16-296, § 2(d), 54 DCR 1097; Aug. 16, 2008, D.C. Law 17-219, § 5004(a), 55 DCR 7598; Sept. 26, 2012, D.C. Law 19-171, § 33(a), 59 DCR 6190; Dec. 24, 2013, D.C. Law 20-61, § 5182(b), 60 DCR 12472; May 3, 2014, D.C. Law 20-100, § 2(b), 61 DCR 1873.)

Section references. — This section is referenced in § 4-751.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in (b)(2)(K).

The 2013 amendment by D.C. Law 20-61 added (b)(1A).

The 2014 amendment by D.C. Law 20-100 added (b)(2)(M) and made related changes.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 5182(b) of the Fiscal Year 2014 Budget Sup-

port Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5182(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Legislative history of Law 20-61. — See note to § 4-751.01.

Legislative history of Law 20-100. — See note to § 7-751.01.

Short title.

Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the "Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-752.02. Powers and duties of the Interagency Council on Homelessness.

(a) The Interagency Council shall provide leadership in the development of strategies and policies that guide the implementation of the District's policies and programs for meeting the needs of individuals and families who are homeless or at imminent risk of becoming homeless.

(b) In fulfilling the responsibility described in subsection (a) of this section, the Interagency Council shall:

(1) Coordinate an annual, community-wide needs-assessment and planning process to identify, prioritize, and target needs for services within the Continuum of Care. The needs-assessment shall take into account existing data, including the number of homeless youth and the number of LGBTQ homeless youth in the District, and include input from at least one public hearing, which shall be held at least once each year;

(2) At least every 5 years, prepare and publish a strategic plan for services within the Continuum of Care that takes into account existing data and community input;

(3) Prepare an annual plan detailing how the District intends to provide or arrange for services within the Continuum of Care that takes into account existing data and community input, including an assessment of the need for services among subpopulations of homeless individuals or families, including LGBTQ youth;

(4) Review on a regular basis the efforts of each member of the Interagency Council to fulfill the goals and policies of the annual plan prepared pursuant to paragraph (3) of this subsection, including a review of the number and nature of contracts and grants entered into by each agency to provide services within the Continuum of Care;

(5) Prepare and submit to the Mayor an annual written report evaluating the efforts of each member agency of the Interagency Council to meet the goals and policies of the annual plan prepared pursuant to paragraph (3) of this subsection;

(6) Direct the Department of General Services to identify vacant public buildings or tax-foreclosed buildings to be used as shelter and supportive housing facilities;

(7) Provide input into the District's planning and application for federal funds for services within the Continuum of Care. All applications for federal funds shall take into account the strategic plan developed by the Interagency Council prepared pursuant to paragraph (2) of this subsection;

(8) Have access to data collected and generated by a computerized information system as set up by the Mayor pursuant to § 4-753.02(d). The data may include the number of beds or units available in the District's shelter and supportive housing facilities, the availability of supportive services in the District, and the current usage of and unmet demand for such beds, units, and services;

(9) By September 1 of each year, develop a plan, consistent with the right of clients to shelter in severe weather conditions, describing how member agencies will coordinate to provide hypothermia shelter and identifying the specific sites that will be used as hypothermia shelters; and

(10) Review reports of the fair hearings and administrative reviews requested or received by clients within the Continuum of Care, which shall include the provider party to the appeal, the subject matter of the appeal, and the final disposition of the appeal.

(b-1) Beginning 5 years from May 3, 2014, and every 2 years thereafter, the Interagency Council shall evaluate the service needs of the District's LGBTQ homeless youth as compared to homeless youth in the general population. If the Interagency Council determines, based on data, that the needs of LGBTQ homeless youth are being met at a rate equal to or higher than the needs of homeless youth in the general population, the provisions of § 4-755.01(c) shall expire.

(c) The Mayor shall, no later than February 1 of each year, make available to all Interagency Council members the District's proposed budget breakdown of each agency's appropriations for services within the Continuum of Care. The Interagency Council shall give comments to the Mayor regarding the proposed budget.

(d) Each member agency of the Interagency Council shall:

(1) Conduct or commission an annual audit of any private entity designated by the agency to approve or allocate any grants or contracts, on behalf of the Mayor, for services within the Continuum of Care, and make available a report of the audit to all Interagency Council members;

(2) Offer training and technical assistance to its employees who directly provide services within the Continuum of Care and to any providers with which the member agency or its designee contracts to deliver the services; and

(3) Report to the Interagency Council on a quarterly basis currently available data on the number of individuals and families that applied for homeless services and the number of homeless individual or families that were served by the agency and its contractors.

(Oct. 22, 2005, D.C. Law 16-35, § 5, 52 DCR 8113; Sept. 26, 2012, D.C. Law 19-171, § 33(b), 59 DCR 6190; May 3, 2014, D.C. Law 20-100, § 2(c), 61 DCR 1873.)

Section references. — This section is referenced in § 4-754.53 and § 4-755.01.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in (b)(6).

The 2014 amendment by D.C. 20-100 substituted "existing data, including the number of homeless youth and the number of LGBTQ homeless youth in the District," for "existing data" in (b)(1); rewrote (b)(3); and added (b-1).

Legislative history of Law 19-171. — See note to § 4-752.01.

Legislative history of Law 20-100. — See note to § 7-751.01.

Subchapter III. Continuum of Care.

§ 4-753.01. Continuum of Care for individuals and families who are homeless.

(a) The District's provision of homeless services shall be based on a Continuum of Care that offers a comprehensive range of services through various member agencies and is designed to meet the specific, assessed needs of individuals and families who are homeless or at imminent risk of becoming homeless. The District shall respond to the changing needs of individuals and families by ensuring that transfer between and among services within the Continuum of Care is fluid and allows clients to modify the intensity of services they receive to meet their needs, preferences, and changing circumstances.

(b) The Continuum of Care may include the following range of services:

(1) Crisis intervention for the purpose of preventing homelessness by enabling individuals and families at imminent risk of becoming homeless to remain in or access permanent housing; provided, that the Mayor shall not offer crisis intervention services authorized by this paragraph until the Chief Financial Officer has certified the availability of fiscal year 2006 funding pursuant to section 1016(5) of D.C. Law 16-33;

(2) Outreach and assessment, including the operation of a hotline, for the purpose of identifying the housing and supportive service needs of individuals and families who are homeless or at imminent risk of becoming homeless and linking them to appropriate services;

(3) Shelter to meet the housing needs of individuals and families who are homeless through the provision of:

(A) Severe weather shelter for the purpose of protecting lives in extreme hot and cold weather;

(B) Low barrier shelter for individuals for the purpose of sheltering and engaging individuals who avoid temporary shelter because of identification, time limit, or other program requirements; and

(C) Temporary shelter for individuals and families for the purpose of meeting short-term housing needs and other supportive service needs;

(4) Supportive housing to meet the longer-term housing needs of individuals and families who are homeless through the provision of:

(A) Transitional housing for the purpose of providing eligible individuals and families who are homeless with long-term housing and supportive services in order to prepare them for self-sufficient living in permanent housing; and

(B) Permanent supportive housing for the purpose of providing eligible

individuals and families who are homeless or at imminent risk of becoming homeless with housing and supportive services;

(C) Housing First for the purpose of providing eligible individuals and families who are homeless with housing and supportive services;

(5) Supportive services for the purpose of providing individuals and families who are homeless or at imminent risk of becoming homeless with services that address their housing, employment, physical health, mental health, alcohol and other substance abuse recovery, child care, case management, transportation, and other health and social service needs which, if unmet, may be barriers to obtaining or maintaining permanent housing. These services may, but need not, be delivered through day programs, drop-in centers, shelters, and transitional and permanent supportive housing providers, or through referrals to other appropriate service providers; and

(6) Services designed to alleviate the high risk of homelessness faced by LGBTQ youth.

(c)(1) Whenever the actual or forecasted temperature, including the wind chill factor, falls below 32 degrees Fahrenheit, or whenever the actual or forecasted temperature or heat index rises above 95 degrees Fahrenheit, the District shall make available appropriate space in District of Columbia public or private buildings and facilities for any resident of the District who is homeless and cannot access other housing arrangements. The District may make such space available for any person who is not a resident of the District, is homeless, and cannot access other housing arrangements; provided, that the District shall give priority to residents of the District.

(2) In making appropriate space available in District of Columbia public or private buildings and facilities, the District shall not use District of Columbia Public Schools buildings currently being used for educational purposes without the prior approval of the Mayor.

(3)(A) Low-barrier shelters and severe weather shelters operating as low-barrier shelters shall not be required to receive demonstration of residency or prioritize District residents.

(B) The Mayor may determine whether a person seeking shelter by reason of domestic violence, sexual assault, or human trafficking is a resident of the District without receiving demonstration of District residency in accordance with § 4-751.01(32).

(4) For the purposes of this subsection the term "cannot access other housing arrangements" means that the homeless person is living in a place not intended as a residence, such as outdoors, in a vehicle, or in a condemned or abandoned building or is living in a situation that is dangerous to the health or safety of the person or of any family member.

(d)(1) Except as provided in paragraph (2) of this subsection, the Mayor shall not place homeless families in non-apartment-style shelters.

(2) The Mayor is authorized to place homeless families in non-apartment-style shelters that are private rooms only when no apartment-style shelters are available.

(e) Pursuant to § 4-756.02, the Mayor shall issue rules on the administration of emergency assistance grants offered as crisis intervention services to

individuals and families in need of cash assistance for mortgage, rent, or utility bills in arrears or for a security deposit or first month's rent.

(f)(1) The Mayor may require clients to establish and contribute to a savings or escrow account, or other similar savings arrangement. The savings or escrow arrangement shall be customized to each client so as not to jeopardize another benefit program and to allow for reasonable and necessary expenses.

(2) A client shall not be terminated for failing to contribute to a savings or escrow account or similar savings arrangement; provided, that other sanctions may be imposed as provided by rule.

(3) Pursuant to § 4-756.02, the Mayor shall issue rules on the establishment of any mandatory savings or escrow accounts, or other similar savings arrangements, authorized by this section. The rules shall provide exceptions to the requirement for mandatory savings or escrow accounts, or other similar savings arrangements.

(g) The annual Point-in-Time survey conducted pursuant to regulations of the Department of Housing and Urban Development shall include data collection regarding the sexual orientation and gender identity of each individual counted, subject to the individual's discretion to decline to provide that information.

(Oct. 22, 2005, D.C. Law 16-35, § 7, 52 DCR 8113; Mar. 14, 2007, D.C. Law 16-296, § 2(e), 54 DCR 1097; Apr. 8, 2011, D.C. Law 18-367, § 2(b), 58 DCR 987; Dec. 24, 2013, D.C. Law 20-61, § 5182(c), 60 DCR 12472; May 3, 2014, D.C. Law 20-100, § 2(d), 61 DCR 1873.)

Section references. — This section is referenced in § 4-753.01a, § 4-753.04, § 4-754.13, § 4-754.32, and § 19-701.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added (f).

The 2014 amendment by D.C. Law 20-100 added (b)(6) and made related changes; and added (g).

Temporary legislation. — For temporary (225 days) establishment of the Center for Creative Non-Violence and District Government Task Force, see § 2 of the CCNV Task Force Temporary Act of 2013 (D.C. Law 20-45, December 5, 2013, 60 DCR 14959).

Emergency legislation. — For temporary (90 days) establishment of the Center for Creative Non-Violence and District Government Task Force, see § 2 of the CCNV Task Force Emergency Act of 2013 (D.C. Act 20-147, August 2, 2013, 60 DCR 11809, 20 DCSTAT 2000).

For temporary (90 days) homeless prevention and rapid re-housing pilot, see §§ 5172 and 5173 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5182(c) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) homeless prevention and rapid re-housing pilot, see § 5172 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

For temporary (90 days) amendment of this section, see § 5182(c) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

For temporary (90 days) establishment of the Center for Creative Non-Violence and District Government Task Force, see §§ 2 and 3 of the CCNV Task Force Congressional Review Emergency Act of 2013 (D.C. Act 20-226, November 29, 2013, 60 DCR 16772, 20 STAT 2616).

Legislative history of Law 20-61. — See note to § 4-751.01.

Legislative history of Law 20-100. — See note to § 7-751.01.

Short title. — Section 5171 of D.C. Law 20-61 provided that Subtitle P of Title V of the act may be cited as the "Homelessness Prevention and Rapid Re-Housing Pilot Initiatives Emergency Act of 2013".

Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the ""Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Section 5172 of D.C. Law 20-61 provided for the planning and implementation of an Emergency Rental Assistance Program ("ERAP") pilot initiative and a Rapid Re-Housing ("RRH") pilot initiative.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-753.01a. Housing First Fund.

Short title.

Section 7311 of D.C. Law 20-61 provided that Subtitle EE of Title VII of the act may be cited as the "Internet Sales Tax, Homelessness Prevention, and WMATA Momentum Fund Establishment Act of 2013".

Editor's notes.

Section 7313 of D.C. Law 20-61, applicable pursuant to D.C. Law 20-61, § 7315, provided that fifty percent of the revenue from the automated traffic enforcement program, to the extent that the revenue is offset by revenue from a tax on sales made via the Internet imposed by Chapter 39A of Title 47 [§ 47-3931 et seq.], and the interest earned on that revenue, but not to exceed $50 million in a fiscal year, shall be dedicated to the End Homelessness Fund established in § 1-325.261.

§ 4-753.02. Eligibility for services within the Continuum of Care.

(a) An individual or family is eligible to receive services within the Continuum of Care if the individual or family:

(1) Is homeless or at imminent risk of becoming homeless;

(2) Is a resident of the District, as defined by § 4-751.01(32), except that low-barrier shelters and severe weather shelters operating as low-barrier shelters shall not be required to receive demonstration of residency or prioritize District residents, pursuant to subsection (b) of this section; and

(3) Meets any additional eligibility requirements that have been established pursuant to § 4-754.31 by the provider from whom services are sought.

(a-1) Notwithstanding subsection (a)(2) of this section, the Mayor may exclude certain services within the Continuum of Care from the residency requirement; provided, that the Mayor publishes which services are excluded from the requirement.

(b) No individual or family may be deemed ineligible for services solely because the individual or family cannot establish proof of homelessness or residency at the time of the individual or family's application for assistance. The District shall give priority, however, to an individual or family who establishes proof of residency and homelessness at the time of application for assistance.

(c)(1) The Mayor shall operate at least one central intake center for families for the purposes of:

(A) Assessing the eligibility of families for services within the Continuum of Care and making appropriate referrals for those services; and

(B) Serving as a resource center for families who are seeking information about the availability of services within the Continuum of Care.

(1A) The Mayor shall operate an intake center specializing in crisis intervention services and located in close proximity to the Landlord and Tenant Branch of the Superior Court of the District of Columbia.

(1B) Intake workers shall provide the following for each individual seeking services:

(A) An overview of the shelter's policies in regards to the protection of residents based upon actual or perceived sexual orientation and gender identity;

(B) The opportunity for the individual to disclose whether he or she requests special placement or care based on safety concerns due to actual or perceived sexual orientation status or gender identity; and

(C) The opportunity to disclose, voluntarily and only following a discussion of the shelter's policies and accommodations for LGBTQ populations and ability to safeguard confidential information, the individual's sexual orientation and gender identification and expression; provided, that the intake worker and all staff shall conduct this discussion in a culturally competent manner.

(2) Families who are eligible for services within the Continuum of Care shall receive appropriate referrals to the first available provider based on the chronological order in which they apply for assistance, consistent with any additional eligibility requirements established pursuant to § 4-754.32 by the provider from whom services are sought.

(3) Any family who is determined to be eligible for services pursuant to subsection (c)(1)(A) of this section, but who is not immediately served due to lack of capacity, shall be placed on one or more waiting lists for the services sought and shall be served in the order in which appropriate referrals become available.

(4) Notwithstanding paragraph (2) of this subsection, in determining what is an "appropriate referral," the Mayor shall consider relevant factors, including prior receipt of services, disability, family size, affordability of housing, age, and whether an individual is an LGBTQ homeless youth, and may use these factors to prioritize a family's placement in shelter or other service.

(5) The Mayor shall not impose or apply eligibility criteria that exclude or tend to exclude an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any services within the Continuum of Care, unless such criteria are shown to be necessary for the provision of the services.

(d)(1) The Mayor shall operate a computerized information system to collect, maintain, and distribute up-to-date information regarding the number of beds or units available in shelter and supportive housing in the District, the availability of supportive services, and the current usage and unmet demand for such beds, units, and services.

(2) Intake providers shall enter the information provided pursuant to subsection (c)(1B) of this section in the computerized information system.

(Oct. 22, 2005, D.C. Law 16-35, § 8, 52 DCR 8113; Mar. 14, 2007, D.C. Law 16-296, § 2(f), 54 DCR 1097; Apr. 8, 2011, D.C. Law 18-367, § 2(c), 58 DCR 987; May 3, 2014, D.C. Law 20-100, § 2(e), 61 DCR 1873.)

Section references. — This section is referenced in § 4-752.02, § 4-754.21, § 4-754.34, and § 4-756.02.

Effect of amendments.

The 2014 amendment by D.C. Law 20-100 added (c)(1B); substituted "housing, age, and whether an individual is an LGBTQ homeless youth" for "housing and age" in (c)(4); and added (d)(2).

Legislative history of Law 20-100. — See

note to § 7-751.01.

§ 4-753.03. Grace period for establishing residency.

Emergency legislation. — For temporary (90 day) addition of section, see § 5102 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5102 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 4-753.04. Fiscal years 2012 and 2013 rapid re-housing.

(a)(1) Beginning in June 2012, the Department shall identify at least 200 homeless families from hotels, motels, severe-weather shelters, temporary shelters, or transitional housing, and ensure that at least 100 of these families are placed in or are residing in apartment-style housing units that meet the requirements of the Rent Supplement Program, established by § 6-226, by before [sic] September 30, 2012.

(2) By October 1, 2012, the Department shall ensure that all homeless families that were residing in hotels or motels have been placed into shelter or housing.

(3) Placements made by the Department pursuant to subjection (a) of this section shall be done in coordination with the District of Columbia Housing Authority ("DCHA"). The Department shall develop rules for selecting homeless families that will be converted onto the Rent Supplement Program's tenant-based vouchers and submit them to the Council within 45 days of June 19, 2012.

(4) Once there are vacancies in temporary shelters, severe-weather shelters, or transitional housing, the Department shall use all available resources currently budgeted for homeless families to place new family-shelter applicants who cannot access other housing arrangements, as defined in § 4-753.01(c)(4) into shelters or housing.

(b) Beginning in fiscal year 2013, and for each fiscal year thereafter, an additional $4 million shall be included in the DCHA Subsidy to provide tenant-based rental assistance to between 200 and 300 eligible families in accordance with the Rent Supplement Program, established by § 6-226. DCHA shall provide tenant- based rental assistance through the Rent Supplement Program to all families placed in housing pursuant to subsection (a) of this section who meet the eligibility criteria established for sponsor-based housing assistance under the Rent Supplement Program, set forth in section 9508 of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 9508).

(Oct. 22, 2005, D.C. Law 16-35, § 8b, as added Sept. 20, 2012, D.C. Law 19-168, § 5102, 59 DCR 8025.)

Effect of amendments. — D.C. Law 19-168 added this section.

Emergency legislation. — For temporary addition of section, see § 5102 of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law

19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 4-753.05. Placement of first-priority homeless families.

The Mayor and the District of Columbia Housing Authority shall fill vacant Rent Supplement Program tenant-based vouchers, established by § 6-228, with homeless families referred by the Department of Human Services and determined to have first priority to shelter pursuant to 29 DCMR § 2508.01(a)(1). The referrals shall be made in accordance with the special eligibility criteria set forth in 29 DCMR § 2556 through 29 DCMR § 2558.

(Oct. 22, 2005, D.C. Law 16-35, § 8c, as added Dec. 24, 2013, D.C. Law 20-61, § 2092, 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added this section.

Temporary legislation. — Section 2 of D.C. Law 19-236 added D.C. Law 16-35 § 8c to read as follows:

"Sec. 8c. Placement of first priority homeless families for the 2012-2013 hypothermia season.

"For fiscal year 2013, the Mayor and the District of Columbia Housing Authority may fill vacant Rent Supplement Program tenant-based vouchers, established by section 26c of the District of Columbia Housing Authority Act of 1999, effective March 2, 2007 (D.C. Law 16-192; D.C. Official Code § 6-228), with homeless families referred by the Department of Human Services and determined to have first priority to shelter pursuant to 29 DCMR § 2508.01(a)(1), through the end of the 2012-2013 hypothermia season. The referrals shall be made in accordance with the special eligibility criteria set forth in 29 DCMR § 2556 through 29 DCMR § 2558."

Section 4(b) of D.C. Law 19-236 provided that the act shall expire after 225 days of its having taken effect.

For temporary (225 days) addition of D.C. Law 16-35, § 8c, concerning placement of first priority homeless families, see § 2 of the Fiscal Year 2014 Budget Support Technical Clarification Temporary Amendment Act of 2013 (D.C. Law 20-56, December 13, 2013, 60 DCR 15165).

Emergency legislation. — For temporary addition of D.C. Law 16-35, § 8c, concerning placement of first priority homeless families for the 2012-2013 hypothermia season, see § 2 of the Local Rent Supplement Program Voucher Emergency Amendment Act of 2012 (D.C. Act 19-545, November 16, 2012, 59 DCR 13590).

For temporary (90 days) addition of D.C. Law 16-35, § 8c, concerning placement of first priority homeless families for the 2012-2013 hypothermia season, see § 2 of the Local Rent Supplement Program Voucher Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-12, February 20, 2013, 60 DCR 3960, 20 DCSTAT 466).

For temporary (90 days) addition of this section, see §§ 2092 and 2093 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 day) addition of D.C. Law 16-35, § 8c, see §§ 2(a), 2(c), 3(a), and 3(c) of the Fiscal Year 2014 Budget Support Technical Clarification Emergency Amendment Act of 2013 (D.C. Act 20-180, October 4, 2013, 60 DCR 14949).

For temporary (90 days) addition of this section, see §§ 2092 and 2093 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-751.01.

Short title. — Section 2091 of D.C. Law 20-61 provided that Subtitle J of Title II of the act may be cited as the "Local Rent Supplement Sustainment Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Applicability of D.C. Law 20- (Act 20-291): Section 18 of D.C. Law 20- (Act 20-291) provided that the act shall apply as of October 1, 2013.

Subchapter IV. Provision of Services for Homeless Individuals and Families.

PART B.

CLIENT RIGHTS AND RESPONSIBILITIES.

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§ 4-754.11. Client rights.

Clients served within the Continuum of Care shall have the right to:

(1) At all times, be treated by providers and the Department with dignity and respect;

(2) Access services within the Continuum of Care free from discrimination on the basis of race, color, religion, national origin, language, culture, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, disability, and source of income, and in accordance with Unit A of Chapter 14 of Title 2, the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 328; 42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973, approved August 7, 1998 (112 Stat. 1095; 29 U.S.C. § 701 et seq.), Title II of the Civil Rights Act of 1964, approved July 2, 1964 (78 Stat. 243; 42 U.S.C. § 2000a et seq.), and subchapter II of Chapter 19 of Title 2 [§ 2-1931 et seq.];

(3) Receive reasonable modifications to policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the client's provider demonstrates that the modifications would fundamentally alter the nature of the services;

(4) Access services within the Continuum of Care free from verbal, emotional, sexual, financial, and physical abuse and exploitation;

(5) Shelter in severe weather conditions;

(6) At a reasonable time and with reasonable prior notice, view and copy, or have an authorized representative view and copy, all records and information that are related to the client and maintained by the client's provider, including any relevant personal, social, legal, financial, educational, and medical records and information, subject to the provisions of paragraph (7) of this subsection;

(7) Confidential treatment by the Department and providers of personal, social, legal, financial, educational, and medical records and information related to a client or any member of a client's family, whether obtained from the client or from any other source, in a manner consistent with the confidentiality requirements of District and federal law;

(8) Engage in or abstain from the practice of religion, including the religion of a particular provider or other clients;

(9) Upon request, be told the name and job title of any provider staff member delivering services;

(10) Provide input and feedback to providers on their delivery of services;

(11) File complaints with, testify before, or provide information to a provider or the Mayor regarding the provider's delivery of services or treatment of the client;

(12) Participate actively in development of any service plan for the client, be told of the progress made toward the goals of that service plan, and receive a review of the service plan upon request;

(13) Be free from testing for drugs or alcohol except when:

(A) Program guidelines prohibit intoxication and a licensed social worker with experience identifying indications of drug or alcohol use or a certified addiction counselor determines that there is reasonable cause to believe that the client is engaging in drug or alcohol use; or

(B) A client consents to drug or alcohol testing as part of the client's case management plan developed in accordance with paragraph (12) of this subsection;

(14) Meet and communicate privately with attorneys, advocates, clergy, physicians, and other professionals;

(15) Timely notice, where required by § 4-754.33, of any decision by the Department or a provider that adversely affects the client's receipt of services within the Continuum of Care;

(16) Appeal, where permitted by §§ 4-754.41 and 4-754.42, of any decision by the Department or a provider that adversely affects the client's receipt of services within the Continuum of Care;

(17) Be free from retaliation, punishment, or sanction for exercising any rights provided under this chapter;

(18) Continuation of shelter and supportive housing services without change, other than transfer pursuant to § 4-754.34 or emergency transfer, suspension, or termination pursuant to § 4-754.38, pending the outcome of any fair hearing requested within 15 calendar days of receipt of written notice of a suspension or termination; and

(19) Be treated in all ways in accordance with the individual's gender identity and expression, including:

(A) Use of gender-specific facilities including restrooms, showers, and locker rooms;

(B) Being addressed in accordance with the individual's gender identity and expression;

(C) Having documentation reflect the individual's gender identity and expression;

(D) Being free from dress codes that are in conflict with the individual's gender identity and expression;

(E) Confidentiality of information regarding the individual's gender identity and expression; and

(F) Being free from discrimination in the provision of health care and mental health services related to the individual's gender identity and expression.

(Oct. 22, 2005, D.C. Law 16-35, § 9, 52 DCR 8113; Mar. 14, 2007, D.C. Law 16-296, § 2(g), 54 DCR 1097; June 25, 2008, D.C. Law 17-177, § 7(b), 55 DCR 3696; May 3, 2014, D.C. Law 20-100, § 2(f), 61 DCR 1873.)

Section references. — This section is referenced in § 4-754.12, § 4-754.31, § 4-754.32, § 4-754.33, § 4-754.38, § 4-754.41, § 4-754.52, and § 4-755.01.

Effect of amendments.

The 2014 amendment by D.C. Law 20-100 added (19) and made related changes.

Legislative history of Law 20-100. — See note to § 7-751.01.

CASE NOTES

Denial of shelter.

While the complaint alleged that unspecified former shelter residents and other homeless in the area were denied shelter during conditions covered by D.C. Code § 4-751.01(35), the complaint pointedly did not allege that any of the current or proposed plaintiffs were among those denied shelter during that night, nor did any of the declarations submitted by the plaintiffs make such a claim, so they could not prevail on any claim under the District of Columbia's Homeless Services Reform Act (HSRA), D.C. Code § 4-751.01 et seq., based on the denial of shelter. Boykin v. Gray, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 143580 (D.D.C. Oct. 4, 2012).

§ 4-754.13. Client responsibilities.

(a) Clients receiving services within the Continuum of Care shall:

(1) Seek appropriate permanent housing or Housing First, except when the client is residing in severe weather and low barrier shelter;

(2) Seek employment, education, or training when appropriate, except when the client is residing in severe weather and low barrier shelter;

(3) Refrain from the following behaviors while on a provider's premises:

(A) The use or possession of alcohol or illegal drugs;

(B) The use or possession of weapons;

(C) Assaulting or battering any individual, or threatening to do so; and

(D) Any other acts that endanger the health or safety of the client or any other individual on the premises;

(4) Ensure that children within the client's family and physical custody are enrolled in school, where required by law;

(5) Ensure that the client's minor children receive appropriate supervision while on the provider's premises;

(6) Utilize child care services when necessary to enable the adult client to seek employment or housing or to attend school or training, unless the client meets any of the exemptions of § 4-205.19g, or section 5809.4(b)-(e) of Title 29 of the District of Columbia Municipal Regulations, including any subsequent revisions.

(7) Respect the safety, personal rights, and private property of provider staff members and other clients;

(8) Maintain clean sleeping and living areas, including bathroom and cooking areas;

(9) Use communal areas appropriately, with attention to cleanliness and respect for the interests of other clients;

(10) Be responsible for one's own personal property;

(11) Establish and contribute to a savings or escrow account, or other similar savings arrangement, if required by rules established by the Mayor pursuant to § 4-753.01(f) and included in the provider's Program Rules approved pursuant to § 4-754.32(b); and

(12) Follow all Program Rules established by a provider pursuant to § 4-754.32.

(b) Clients residing in temporary shelter and transitional housing shall participate in the provider's assessment and case management services.

(Oct. 22, 2005, D.C. Law 16-35, § 11, 52 DCR 8113; Dec. 24, 2013, D.C. Law 20-61, § 5182(d), 60 DCR 12472.)

Section references. — This section is referenced in § 4-754.32, § 4-754.34, and § 4-754.35.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added (a)(11); redesignated former (a)(11) as (a)(12); and made related changes.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 5182(d) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5182(d) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-751.01.

Short title. — Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the "Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART C.

PROVIDER STANDARDS.

§ 4-754.21. Common standards for all providers.

Providers shall:

(1) Ensure staff members are appropriately trained, qualified, and supervised;

(2) Maintain safe, clean, and sanitary facilities that meet all applicable District health, sanitation, fire, building, and zoning codes;

(3) Assist clients to prepare for living in permanent housing, as deemed appropriate by the provider and the client;

(4) Collaborate and coordinate with other service providers to meet the client's needs, as deemed appropriate by the provider and the client;

(5) Receive and utilize client input and feedback for the purpose of evaluating and improving the provider's services;

(6) Establish procedures for the provider's internal complaint procedures;

(7) Provide clients with copies of printed information describing the range of services within the Continuum of Care;

(8) In accordance with § 4-753.02(c) and as openings occur, inform all clients of services for which they may be eligible;

(9) Deliver or provide access to culturally competent services and language assistance for clients with limited English proficiency;

(10) Provide services free from discrimination on the basis of race, color, religion, national origin, language, culture, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, disability, and

source of income, and in accordance with Unit A of Chapter 14 of Title 2, the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 328; 42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973, approved August 7, 1998 (112 Stat. 1095; 29 U.S.C. § 701 et seq.), and Title II of the Civil Rights Act of 1964, approved July 2, 1964 (78 Stat. 243; 42 U.S.C. § 2000a et seq.);

(11) Provide reasonable modifications to policies, practices, and procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the provider demonstrates that making the modifications would fundamentally alter the nature of the services;

(12) Ensure confidential treatment of the personal, social, legal, financial, and medical records and information related to a client or any member of a client's family, whether obtained from the client or from any other source, consistent with the confidentiality requirements of District and federal law;

(13) Establish Program Rules in accordance with § 4-754.32;

(14) Provide notice of its Program Rules in accordance with § 4-754.33;

(15) Collect, record, and annually report to the Mayor all complaints, including requests for fair hearings or administrative reviews, made against or related to the provider during the year;

(16) Establish procedures to revise practices and policies as may be necessary to ensure that clients may access services free from discrimination on the basis of disability;

(17) Publicly display information regarding the ability to seek redress under Unit A of Chapter 14 of Title 2 [§ 2-1401.01 et seq.]; and

(18) Develop a system for reporting bullying and harassment in accordance with subchapter II-C of Chapter 15 of Title 2 [§ 2-1535.01 et seq.].

(Oct. 22, 2005, D.C. Law 16-35, § 12, 52 DCR 8113; June 25, 2008, D.C. Law 17-177, § 7(c), 55 DCR 3696; May 3, 2014, D.C. Law 20-100, § 2(g), 61 DCR 1873.)

Section references. — This section is referenced in § 4-754.22, § 4-754.23, § 4-754.24, § 4-754.25, § 4-754.41, and § 4-754.52.

Effect of amendments.

The 2014 amendment by D.C. Law 20-100 added (17) and (18) and made related changes.

Legislative history of Law 20-100. — See note to § 7-751.01.

§ 4-754.21a. Training standards for all providers.

All homeless service workers, including intake workers, shall be trained in cultural competence, including, with regard to the LGBTQ population, the following:

(1) Vocabulary and best practices for data collection, privacy, storage, and use;

(2) Current social science research and common risk factors for LGBTQ youth;

(3) Information about the coming out process and its impact on LGBTQ youth;

(4) Best practices for supporting LGBTQ youth in shelter, housing, and supportive services;

(5) Suicide awareness and prevention; and

(6) Legal requirements for providers for homeless youth.

(Oct. 22, 2005, D.C. Law 16-35, § 12a, as added May 3, 2014, D.C. Law 20-100, § 2(h), 61 DCR 1873.)

Section references. — This section is referenced in § 4-756.02.

Effect of amendments. — The 2014 amendment by D.C. Law 20-100 added this section.

Legislative history of Law 20-100. — See note to § 7-751.01.

§ 4-754.25a. Additional standards for providers of shelter or supportive housing for LGBTQ homeless youth.

Providers of shelter or supportive housing for LGBTQ homeless youth shall implement research-based family acceptance interventions that are designed to educate families on the impact of rejection towards their LGBTQ children and negative outcomes for LGBTQ youth associated with rejection, including depression, suicidal behavior, drug use, and unprotected sex. Family acceptance interventions may include individual and family sessions, assessment tools, and resources for families that promote acceptance by parents and positive well-being and development of LGBTQ youth.

(Oct. 22, 2005, D.C. Law 16-35, § 16a, as added May 3, 2014, D.C. Law 20-100, § 2(i), 61 DCR 1873.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-100 added this section.

Legislative history of Law 20-100. — See note to § 7-751.01.

PART D.

PROVIDER REQUIREMENTS.

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§ 4-754.32. Provider Program Rules.

(a) Pursuant to the limitations of subsections (b) and (c) of this section, providers may establish Program Rules related to the specific goals of their programs. The Program Rules shall include:

(1) Any applicable special eligibility requirements for the purpose of limiting entry into the program to individuals or families exhibiting the specific challenges that the program is designed to address, except in severe weather shelter and low barrier shelter;

(2) Rules regarding client responsibilities, including those listed in § 4-754.13;

(3) A list of client rights, including those listed in § 4-754.11, and where appropriate, § 4-754.12;

(4) A description of the internal complaint procedures established by the

provider for the purpose of providing the client with an opportunity to promptly resolve complaints;

(5) A description of the procedures by which an individual with a disability may request a reasonable modification of policies or practices that have the effect of limiting the right to access services free from discrimination on the basis of disability as established by § 4-754.11(2).

(6) A description of the procedures and notice requirements of any internal mediation program established by the provider pursuant to § 4-754.39;

(7) A description of any schedule of sanctions that a provider may apply to clients who are in violation of the Program Rules, as authorized by §§ 4-754.34 through 4-754.38;

(8) A description of a client's right to appeal any decision or action by the provider that adversely affects the client's receipt of services through fair hearing proceedings pursuant to § 4-754.41 and administrative review proceedings pursuant to § 4-754.42; and

(9) A description of a client's responsibilities to establish and contribute to a savings and escrow account, or other similar savings arrangement, if required by rules established by the Mayor pursuant to § 4-753.01(f).

(b) Any Program Rules established by a provider shall be submitted to the Mayor for approval in accordance with the following requirements:

(1) Within 90 days of October 22, 2005;

(2) On a yearly basis thereafter, with any proposed changes clearly identified; and

(3) Whenever a provider seeks approval to change its eligibility criteria, the rules of its internal mediation program or complaint procedures, or its schedule of sanctions.

(c) No provider may enforce any provision within its Program Rules, other than those requirements or protections specifically enumerated by this chapter, unless:

(1) The Program Rules were in existence before October 22, 2005, and less than 180 days has passed since October 22, 2005; or

(2) The Mayor has approved the Program Rules pursuant to subsection (b) of this section.

(Oct. 22, 2005, D.C. Law 16-35, § 18, 52 DCR 8113; Dec. 24, 2013, D.C. Law 20-61, § 5182(e), 60 DCR 12472.)

Section references. — This section is referenced in § 4-751.01, § 4-753.02, § 4-754.12, § 4-754.13, and § 4-754.21.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added (a)(9) and made related changes.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 5182(e) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5182(e) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-751.01.

Short title. — Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the "Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law

20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-754.33. Notice of Program Rules.

(a)(1) All provider shall give prompt and effective notice of their Program Rules by:

(A) Posting a copy of their Program Rules on the provider's premises in a location easily accessible to clients and visitors; and

(B) Giving every new client written notice of the provider's Program Rules, and reading and explaining the written notice to the client.

(2) The client and the provider staff member delivering the notice pursuant to paragraph (1)(B) of this subsection shall both sign a statement acknowledging the client's receipt of the notice and indicating the client's awareness, understanding, and acceptance of the Program Rules.

(b) All providers shall give to any client to whom they have denied services oral and written notice of the right to appeal the denial, including information about how to request a fair hearing pursuant to § 4-754.41 and administrative review pursuant to § 4-754.42.

(c) All providers shall give written and oral notice to clients of their transfer to another provider or of their suspension, termination, or discontinuation from services at least 15 days before the effective date of the transfer or the suspension, termination, or discontinuation of services except:

(1) When the sanction results from the client's imminent threat to the health or safety of someone on the premises of the provider in accordance with § 4-754.38; or

(2) When the sanction is a suspension of supportive services for a period shorter than 10 days.

(d) Any notice issued pursuant to subsection (b) or (c) of this section must be mailed or served upon the client and shall include:

(1) A clear statement of the sanction or denial;

(2) A clear and detailed statement of the factual basis for the sanction or denial, including the date or dates on which the basis or bases for the sanction or denial occurred;

(3) A reference to the statute, regulation, policy, or Program Rule pursuant to which the sanction or denial is being implemented;

(4) A clear and complete statement of the client's right to appeal the sanction or denial through fair hearing proceedings pursuant to § 4-754.41 and administrative review proceedings pursuant to § 4-754.42, or the client's right to reconsideration pursuant to rules established by the Mayor in accordance with § 4-756.02, including the appropriate deadlines for instituting the appeal or reconsideration; and

(5) A statement of the client's right, if any, to continuation of benefits pending the outcome of any appeal, pursuant to § 4-754.11(18).

(e) Providers shall establish procedures to provide effective notice of rights, rules, sanctions, and denials to clients with special needs, including those who may be mentally impaired or mentally ill, or who may have difficulty reading or have limited English proficiency.

(Oct. 22, 2005, D.C. Law 16-35, § 19, 52 DCR 8113; Dec. 24, 2013, D.C. Law 20-61, § 5182(f), 60 DCR 12472.)

Section references. — This section is referenced in § 4-754.11, § 4-754.21, § 4-754.34, § 4-754.35, § 4-754.36a, § 4-754.38, and § 4-754.42.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 rewrote (c) and (d)(4).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 5182(f) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5182(f) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-751.01.

Short title. — Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the "Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-754.34. Transfer of clients.

(a) A provider may transfer a client to another provider to ensure the client receives the most appropriate services available within the Continuum of Care whenever:

(1) The client consents to the transfer;

(2) The provider identifies and secures for the client a placement with another provider that more appropriately meets the client's medical, mental health, behavioral, or rehabilitative service needs in accordance with the client's service plan; or

(3) The client is a non-LGBTQ-identified youth occupying a bed established pursuant to § 4-755.01(c)(1) and an LGBTQ-identified homeless youth has presented a need for shelter.

(b) In addition to the circumstances under which a client may be transferred as described in subsection (a) of this section, a provider may transfer a client when a client fails or refuses to comply with the provider's Program Rules and the client responsibilities listed in § 4-754.13, or engages in any of the behaviors listed in § 4-754.36(2); provided, that:

(1) The client has received proper notice of the Program Rules, client responsibilities, and prohibited behaviors, as required by § 4-754.33; and

(2) The provider has made a good-faith effort to enable the client to comply with the Program Rules so that the client is able to continue receiving services without a transfer.

(c) Transfers of clients under this section can be made through direct arrangements with other providers within the Continuum of Care or through coordination with the central intake center established pursuant to § 4-753.02(c)(1). Such efforts shall be documented by the provider in the client's records.

(Oct. 22, 2005, D.C. Law 16-35, § 20, 52 DCR 8113; May 3, 2014, D.C. Law 20-100, § 2(j), 61 DCR 1873.)

Section references. — This section is referenced in § 4-754.11, § 4-754.32, § 4-754.35, § 4-754.36, § 4-754.37, and § 4-755.01.

Effect of amendments. — The 2014 amendment by D.C. Law 20-100 added (a)(3) and made related changes.

Legislative history of Law 20-100. — See note to § 7-751.01.

§ 4-754.36. Termination.

(a) A provider may terminate its delivery of services to a client only when:

(1) The provider documents that it has considered suspending the client in accordance with § 4-754.35 or has made a reasonable effort, in light of the severity of the act or acts leading to the termination, to transfer the client in accordance with § 4-754.34;

(2) The client:

(A) Possesses a weapon on the provider's premises;

(B) Possesses or sells illegal drugs on the provider's premises;

(C) Assaults or batters any person on the provider's premises;

(D) Endangers the client's own safety or the safety of others on the provider's premises;

(E) Intentionally or maliciously vandalizes, destroys, or steals the property of any person on the provider's premises;

(F) Fails to accept an offer of appropriate permanent housing or supportive housing that better serves the client's needs after having been offered 2 appropriate permanent or supportive housing opportunities; or

(G) Knowingly engages in repeated violations of a provider's Program Rules; and

(3) In the case of a termination pursuant to paragraph (2)(F) or (G) of this subsection, the provider has made reasonable efforts to help the client overcome obstacles to obtaining permanent housing.

(b) For the purposes of subsection (a)(2)(F) of this section, Rapid Re-Housing shall be considered an offer of supportive housing and an offer of 2 different units through a Rapid Re-Housing program shall be considered 2 offers of supportive housing. In determining whether an offer of permanent or supportive housing is appropriate, the results of a research- or evidence-based assessment tool used as part of the decision to make such an offer shall be given great weight.

(Oct. 22, 2005, D.C. Law 16-35, § 22, 52 DCR 8113; Dec. 24, 2013, D.C. Law 20-61, § 5182(g), 60 DCR 12472.)

Section references. — This section is referenced in § 4-754.34 and § 4-754.35.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 rewrote the section.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 5182(g) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5182(g) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-751.01.

Short title. — Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the "Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 4-754.36a. Discontinuation of supportive housing services.

(a) A provider may discontinue supportive housing services for a client only when the client has:

(1) Relocated to another program or facility for more than 180 days;

(2) Abandoned his or her unit for more than 60 days and good-faith efforts to locate the client have failed, or the client has been located but has indicated by words or actions that he or she does not intend to return to and reside in the unit; or

(3) The client has not requested a reasonable accommodation to continue the supportive housing services for disability-related reasons, or has requested a reasonable accommodation and it was denied; and

(4) No household members who have been approved as part of the household unit for purposes of the program remain in the supportive housing placement.

(b) Providers of supportive housing shall give oral and written notice, in accordance with § 4-754.33(d), to clients of their discontinuation from services only after the required time period in subsection (a) of this section has lapsed, except where there is credible evidence that the client who has relocated to another program or facility is expected to be absent for more than 180 days. The notice shall be given at least 30 days before the effective date of the discontinuation of services. If it is not possible to provide written notice at the time of the action because the client's whereabouts are unknown, a written notice shall be delivered to the client's last known address or, upon request, within 90 days of the discontinuation of services.

(c) A client whose supportive housing services are discontinued pursuant to this section shall have the right to be re-housed upon return; provided, that the client continues to meet the eligibility criteria for the program and the services are available. If the services are not available from the original supportive housing provider, the client shall receive the first available opening at the original supportive housing provider's program, unless an opening elsewhere is available and the client consents to the alternate provider. To the extent possible, a provider who is notified of a client's impending return shall make a reasonable effort to work with the client to arrange supportive housing services that will be available upon the client's return.

(Oct. 22, 2005, D.C. Law 16-35, § 22a, as added Dec. 24, 2013, D.C. Law 20-61, § 5182(h), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 5182(h) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5182(h) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-751.01.

Short title. — Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the "Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law

20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter V. No Entitlement; Limited Use of Funds.

§ 4-755.01. No entitlement to services.

(a) No provision of this chapter shall be construed to create an entitlement (either direct or implied) on the part of any individual or family to any services within the Continuum of Care, other than shelter in severe weather conditions as authorized by § 4-754.11(5).

(b) No provision of this chapter shall be construed to require the District to expend funds for individuals or families who are eligible for services within the Continuum of Care, beyond the level of the District's annual appropriation for services within the Continuum of Care.

(c)(1) Notwithstanding subsections (a) and (b) of this section, a minimum of 10 beds shall be established for LGBTQ homeless youth through a 2-year grant program to establish and maintain facilities for these beds. LGBTQ-identified homeless youth shall have priority preference for the beds established through the 2-year grant program. If beds are not in use by a LGBTQ-identified homeless youth, they may be filled by a non-LGBTQ-identified homeless youth until an LGBTQ-identified homeless youth presents the need for a bed and the non-LGBTQ-identified homeless youth has been transferred pursuant to § 4-754.34(a).

(2) Eligibility criteria shall be established to receive a grant. Eligible grantees shall:

(A) Be community organizations based in the District;

(B) Have expertise in systems of care for LGBTQ homeless youth; and

(C) Establish or maintain facilities through these grants that protect the safety of LGBTQ homeless youth through facilities that are specifically for LGBTQ youth and separate from any existing homeless services for the general population.

(3) At least 30% of the grant funding shall be allocated to support proposals received for social innovation and other demonstration projects that may address the needs of this population with new, promising prevention and service-delivery models; provided, that the number of beds established for LGBTQ youth is no lower than 10.

(4) This subsection shall expire if the Interagency Council determines that the needs of LGBTQ homeless youth are being met at a rate equal to or higher than the needs of homeless youth in the general population pursuant to § 4-752.02(b-1).

(Oct. 22, 2005, D.C. Law 16-35, § 28, 52 DCR 8113; May 3, 2014, D.C. Law 20-100, § 2(k), 61 DCR 1873.)

Section references. — This section is referenced in § 4-752.02, § 4-754.34, and § 4-756.02.

Effect of amendments. — The 2014 amendment by D.C. Law 20-100 added (c).

Legislative history of Law 20-100. — See note to § 7-751.01.

Subchapter VI. Additional Mayoral Authority.

§ 4-756.02. Rulemaking authority.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(b) Within 90 days of May 3, 2014, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], and subject to the Council review period of subsection (a) of this section, shall issue rules to implement the provisions of this chapter, including:

(1) The data collection requirements of § 4-753.02(c);

(2) The training requirements of § 4-754.21a; and

(3) The grant-making requirements of § 4-755.01.

(Oct. 22, 2005, D.C. Law 16-35, § 31, 52 DCR 8113; May 3, 2014, D.C. Law 20-100, § 2(l), 61 DCR 1873.)

Section references. — This section is referenced in § 4-753.01, § 4-754.33, and § 4-754.56.

Effect of amendments. — The 2014 amendment by D.C. Law 20-100 designated the existing text as (a); and added (b).

Legislative history of Law 20-100. — See note to § 7-751.01.

§ 4-756.03. Director to End Homelessness.

(a) The Mayor shall appoint a Director to End Homelessness ("Director"), pursuant to § 1-523.01(a). The Director shall report to the Mayor, and shall be highly qualified and experienced. The Mayor is encouraged to consult with the Interagency Council of Homelessness on the specific qualifications and job description for this position.

(b) The Director shall:

(1) Coordinate efforts across agencies to end homelessness in the District;

(2) Provide a single point of accountability for efforts to end homelessness in the District;

(3) Help lead and coordinate the Interagency Council on Homelessness;

(4) Work with community stakeholders and the Interagency Council to create, coordinate, and implement a plan to end homelessness in the District;

(5) Create and monitor performance measures that track the District's progress on the plan to end homelessness; and

(6) Report to the Mayor and to the Council by September 30 of each year, beginning in 2014, on the status of ending homelessness in the District.

(Oct. 22, 2005, D.C. Law 16-35, § 31a, as added Dec. 24, 2013, D.C. Law 20-61, § 5182(i), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 5182(i) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5182(i) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 4-751.01.

Short title. — Section 5181 of D.C. Law 20-61 provided that Subtitle Q of Title V of the act may be cited as the "Homeless Services Reform Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

CHAPTER 13. CHILD ABUSE AND NEGLECT.

Subchapter I. Prevention of Child Abuse and Neglect.

PART A.

REPORTING ABUSE AND NEGLECT.

§ 4-1301.02. Definitions.

For the purposes of this subchapter:

(1) "Abused", when used in reference to a child, shall have the same meaning as is provided in § 16-2301(23).

(2) "Adoption promotion and support services" means services and activities designed to encourage more adoptions of committed children, when such adoptions promote the best interest of the children, including such activities as pre-and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.

(2A) Except where used in title IV of this act, "Agency" means the Child and Family Services Agency established by § 4-1303.01a.

(2A-i) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

(2A-ii) "Behavioral health assessment" means a more thorough and comprehensive examination by a mental health professional of all behavioral health issues and needs identified during an initial behavioral health screening by which the mental health professional shall identify the type and extent of the behavioral health problem and make recommendations for treatment interventions.

(2A-iii) "Behavioral health screening" means a brief process designed to identify youth who are at risk of having behavioral health disorders that warrant immediate attention, or intervention, or to identify the need for further assessment with a more comprehensive examination.

(2B) "CAC" means Safe Shores, the District of Columbia's Children's Advocacy Center.

(3) "Case plan" means a written document concerning a child that includes at least the following:

(A) A description of the type of home or institution in which the child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency that is responsible for the child plans to carry out the voluntary placement agreement or judicial determination made with respect to the child;

(B) A plan for assuring that the child receives safe and proper care and that services are available to the parents, child, and foster parents in order to improve conditions in the parents' home, facilitate return of the child to his or her own safe home or to the child's permanent placement, and address the child's needs while a committed child, including the appropriateness of services provided to the child under the plan;

(C) To the extent available and accessible, the child's health and education records;

(D) Where appropriate, for a child 16 years of age or over, a written description of the programs and services which will help the child prepare for the transition from being a committed child to independent living; and

(E) If the child's permanent plan is adoption or placement in another permanent home, documentation of the steps (including child specific recruitment efforts) taken to accomplish the following:

(i) Find an adoptive family or other permanent living arrangement, such as with a legal custodian, with a kinship caregiver, or in independent living;

(ii) Place the child with an adoptive family, a kinship caregiver, a legal custodian, or in another planned permanent living arrangement; and

(iii) Finalize the adoption or legal custody or guardianship.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under § 16-2399, a description of the:

(i) Steps taken to determine that it is not appropriate for the child to be returned home or adopted;

(ii) Reasons for any separation of siblings during placement;

(iii) Reasons a permanent placement with a fit and willing relative through a kinship guardianship-assistance arrangement is in the child's best interests;

(iv) Ways in which the child meets the eligibility requirements for a kinship guardianship-assistance payment;

(v) Efforts made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefore; and

(vi) Efforts made to discuss with the child's parent the kinship guardianship-assistance arrangement, or the reasons the efforts were not made; and

(G) A plan for ensuring the educational stability of the child while in foster care, including:

(i) Assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)(I) An assurance that the Agency has coordinated with appropriate local educational agencies, as defined under section 9101(26) of the Elementary and Secondary Education Act of 1965, approved January 8, 2002 (115 Stat. 1425; 20 U.S.C. § 7801(26)), to ensure that the child remains in the school in which the child is enrolled at the time of placement; or

(II) If remaining in the school the child is enrolled in at the time of placement is not in the best interests of the child, assurances by the Agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the new school.

(4) "Child Protection Register" means the confidential index of all reports established pursuant to § 4-1302.01.

(4A) "Consumer reporting agency" means a person or entity that assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports and the disclosure of file information to third parties.

(5) "Credible evidence" means any evidence that indicates that a child is an abused or neglected child, including the statement of any person worthy of belief.

(6) "Director" means the Director of the Child and Family Services Agency established by § 4-1303.01.

(6A) "Domestic partnership" shall have the same meaning as provided in § 32-701(4).

(7) "Drug" shall have the same meaning as the term "controlled substance" has in § 48-901.02(4).

(8) "Drug-related activity" means the use, sale, distribution, or manufacture of a drug or drug paraphernalia without a legally valid license or medical prescription.

(9) "Entry into foster care" means the earlier of:

(A) The date of the first judicial finding that the child has been neglected; or

(B) The date that is 60 days after the date on which the child is removed from the home.

(9A) "Family assessment" means an evaluation, for the purpose of developing a service plan, to determine:

(A) A family's strengths and needs;

(B) The safety of any children in the home, including assessing whether there exists a risk of abuse or neglect of any child, but excludes a determination as to whether a report of abuse or neglect is substantiated, inconclusive, or unfounded;

(C) A family's ability to function as a cohesive unit; and

(D) A family's access to resources.

(10) "Family preservation services" means services for children and families who are at risk of abuse or neglect, or in crisis, including:

(A) Services designed to help children return to families from which they have been removed, or be placed for adoption, where safe and appropriate, with a legal guardian, or, if adoption or legal guardianship is determined not to be safe and appropriate for a child, in another permanent living arrangement;

(B) Replacement prevention services;

(C) Services which provide follow-up care to families to whom a child has returned after commitment;

(D) Respite care services; and

(E) Services designed to improve parenting skills and abilities.

(11) "Family support services" means community-based services to promote the safety and well-being of children and families, and designed to:

(A) Increase family strength and stability;

(B) Increase parent confidence and competence;

(C) Afford children safe, stable, and supportive family environments; and

(D) Otherwise enhance child development.

(12) "Godparent" means an individual identified by a relative of the child by blood, marriage, domestic partnership, or adoption, in a sworn affidavit, to have close personal or emotional ties with the child or the child's family, which pre-dated the child's placement with the individual.

(13) "Guardian ad litem" means an attorney appointed by the Superior Court of the District of Columbia to represent the child's best interests in neglect proceedings.

(13A) "Inconclusive report" means a report, made pursuant to § 4-1321.03, which cannot be proven to be either substantiated or unfounded.

(14) "Kinship caregiver" means an individual who:

(A) Is approved by the Division to provide kinship care;

(B) Is at least 21 years of age;

(C) Is providing, or is willing to provide for, the day-to-day care of a child; and

(D) Either:

(i) Is a relative of the child by blood, marriage, domestic partnership, or adoption; or

(ii) Is a godparent of the child.

(15) "Law enforcement officer" means a sworn officer of the Metropolitan Police Department of the District of Columbia.

(15A) "Neglected child" shall have the same meaning as is provided in § 16-2301(9).

(15B) "Panel" means the Citizen Review Panel established by § 4-1303.51.

(15C) "Placement disruption" means an unplanned move necessary to protect the safety and well-being of the youth.

(16) "Police" means the Metropolitan Police Department of the District of Columbia.

(17) "Report" means a report to the police or the Agency of a suspected or known neglected child.

(18) Repealed.

(19) "Source" means the person or institution from whom a report originates.

(19A) "Substantiated report" means a report, made pursuant to § 4-1321.03, which is supported by credible evidence and is not against the weight of the evidence.

(20) "Time-limited family reunification services" means services and activities provided to a committed child and to the child's parent, guardian, or custodian in order to facilitate the safe, appropriate, and timely reunification of the child during the 15 months following the child's entry into foster care. Time-limited family reunification services include:

(A) Individual, group, and family counseling;

(B) Inpatient, residential, or outpatient substance abuse treatment services;

(C) Mental health services;

(D) Assistance to address domestic violence;

(E) Services designed to provide temporary child care and therapeutic services for families; and

(F) Transportation to or from any of the services and activities described in this paragraph.

(20A) "Unfounded report" means a report, made pursuant to § 4-1321.03, which is made maliciously or in bad faith or which has no basis in fact.

(21) Repealed.

(22) "Youth" means an individual under 18 years of age residing in the District and those classified as youth in the custody of the Agency who are 21 years of age or younger.

(Sept. 23, 1977, D.C. Law 2-22, title I, § 102, 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 3(a), 37 DCR 50; June 27, 2000, D.C. Law 13-136, § 201(a), 47 DCR 2850; Apr. 4, 2001, D.C. Law 13-277, § 2(a), 48 DCR 2043; Oct. 19, 2002, D.C. Law 14-206, § 2(a), 49 DCR 7815; Apr. 12, 2005, D.C. Law 15-341, § 2(a), 52 DCR 2315; Apr. 13, 2005, D.C. Law 15-354, § 96, 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 20, 53 DCR 6794; Sept. 12, 2008, D.C. Law 17-231, § 12, 55 DCR 6758; May 27, 2010, D.C. Law 18-162, § 2(a), 57 DCR 3029; Sept. 24, 2010, D.C. Law 18-228, § 2(a), 57 DCR 6926; Mar. 12, 2011, D.C. Law 18-312, § 2(a), 57 DCR 12398; June 7, 2012, D.C. Law 19-141, § 505(a), 59 DCR 3083.)

Section references. — This section is referenced in § 2-1402.21, § 4-1301.06b, § 4-1303.03, § 16-914, and § 42-3505.07.

Effect of amendments.

D.C. Law 18-228 added par. (9A).

D.C. Law 18-312 added pars. (3)(F) and (G).

D.C. Law 19-141 added pars. (2A-i), (2A-ii), (2A-iii), (15C), and (22).

Temporary Repeal of Section. — Section 109 of D.C. Law 19-226 repealed D.C. Law 18-228, § 3.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

For temporary (90 days) repeal of D.C. Law 18-228, § 3, see § 7011 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-228, § 3, see § 7011 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 18-228. — Law 18-228, the "Families Together Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-667, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 1, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 7, 2010, it was assigned Act No. 18-472 and transmitted to both Houses of Congress for its review. D.C. Law 18-228 became effective on September 24, 2010.

Legislative history of Law 18-312. — Law 18-312, the "Prevention of Child Abuse and Neglect Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-579, which was referred to the Committee on Human Services, Public Safety and the Judiciary. The Bill was adopted on first and second readings on November 9, 2010, and November 23, 2010, respectively. Signed by the Mayor on

December 13, 2010, it was assigned Act No. 18-633 and transmitted to both Houses of Congress for its review. D.C. Law 18-312 became effective on March 12, 2011.

Legislative history of Law 19-141. — Law 19-141, the "South Capitol Street Memorial Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-211, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

Short title. — Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013".

Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Editor's notes.

Section 3 of D.C. Law 18-228 provided: "Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

Section 7011 of D.C. Law 20-61 repealed D.C. Law 18-228, § 3.

LAW REVIEWS AND JOURNAL COMMENTARIES

"Reparative" Therapy: Whether Parental Attempts To Change A Child's Sexual Orientation Can Legally Constitute Child Abuse, 49 American University Law Review 505.

§ 4-1301.04. Handling of reports — By Agency.

(a)(1) The Agency shall conduct a thorough investigation of a report of suspected child abuse or neglect to protect the health and safety of the child or children when a report involves a child fatality, suspected sex abuse, or the Agency suspects a child is at imminent risk of or has experienced abuse or neglect that the Agency determines to be severe.

(2) For all other reports of suspected child abuse or neglect, the Agency, directly or through a contractor or another appropriate District agency, shall conduct either a thorough investigation or a family assessment. A family's cooperation with the family assessment and its acceptance of services offered pursuant to the assessment shall be voluntary; provided, that there are no child-safety concerns.

(3) If at any time the Agency determines that a report referred for family assessment should be re-referred for an investigation, the Agency shall commence an investigation pursuant to subsections (b), (c), and (d) of this section and the requirements of this subchapter.

(4) If the family assessment determines that the family needs services, the Agency, directly or through a contractor or another appropriate District agency, shall assist the family in obtaining these services.

(5) The family assessment shall commence as soon as possible, but no later than 5 days after the Agency's receipt of the report, and shall include

seeing the child and all other children in the household within that 5-day period; provided, that the report does not involve a child who is at imminent risk of or has experienced abuse or neglect that the Agency determines to be severe, in which case the report shall be referred for investigation.

(6) If at any time the Agency finds, through an evaluation, that the time period of 5 days to commence a family assessment is not serving the best interest of families and children, it shall re-evaluate its practices regarding commencement and implementation of the family assessment, comparing its practices with national standards and best practices. The Agency shall report the conclusions of any re-evaluation to the Council, along with recommendations, if any, for legislative initiatives that address the conclusions of the report.

(b) The investigation shall commence:

(1) Immediately upon receiving a report of suspected abuse or neglect or a referral for investigation following a family assessment indicating that the child's safety or health is in immediate danger; and

(2) As soon as possible, and at least within 24 hours, upon receiving any report or a referral for investigation following a family assessment not involving immediate danger to the child.

(c) The initial phase of the investigation shall:

(1) Be completed within 24 hours of its commencement;

(2) Include notification and coordination with the Metropolitan Police Department when there is indication of a crime, including sexual or serious physical abuse; and

(3) Include:

(A) Seeing the child and all other children in the household outside of the presence of the caretaker or caretakers;

(B) Conducting an interview with the child's caretaker or caretakers;

(C) Speaking with the source of the report;

(D) Assessing the safety and risk of harm to the child from abuse or neglect in the place where the child lives;

(E) Deciding on the safety of the child and of other children in the household;

(F) Deciding on the safety of other children in the care or custody of the person or persons alleged to be abusing or neglecting the child; and

(G) A finding as to whether the report of abuse or neglect is substantiated, inconclusive, or unfounded, unless at any time during the investigation the Director determines it appropriate to refer the family for a family assessment and suspends the investigation to complete a family assessment in accordance with rules issued pursuant to § 4-1306.01(d).

(d) The Agency may request the assistance of the Metropolitan Police Department to assist in the investigation or to ensure the safety of Agency staff.

(e)(1) Repealed.

(2) On or before December 15, 2011, the Agency shall submit a written report to the Council's Committee on Human Services detailing the Agency's progress toward using family assessments as authorized by this section, which shall include:

(A) A detailed review of the steps taken to phase in full implementation of this alternative to investigation;

(B) An evaluation of the strengths and needs of the implementation process; and

(C) Whether additional funding will be needed in fiscal year 2013 for expanded implementation.

(Sept. 23, 1977, D.C. Law 2-22, title I, § 104, 24 DCR 3341; Apr. 4, 2001, D.C. Law 13-277, § 2(b), 48 DCR 2043; Apr. 12, 2005, D.C. Law 15-341,§ 2(b), 52 DCR 2315; Sept. 24, 2010, D.C. Law 18-228, § 2(b), 57 DCR 6926; Sept. 14, 2011, D.C. Law 19-21, § 5052(a), 58 DCR 6226.)

Section references. — This section is referenced in § 4-1301.06a, § 4-1303.03, and § 4-1303.04.

Effect of amendments.

D.C. Law 18-228 rewrote the section.

D.C. Law 19-21 repealed subsec. (e)(1); and, in subsec. (e)(2), substituted "December 15, 2011" for "October 1, 2010" in the lead-in language, substituted "to phase in full implementation of this alternative to investigation;" for "toward full implementation of this alternative to investigation; and" in subpar. (A), substituted "process; and" for "process." in subpar. (B), and added subpar. (C).

Temporary Repeal of Section. — Section 109 of D.C. Law 19-226 repealed D.C. Law 18-228, § 3.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary (90 days) repeal of D.C. Law 18-228, § 3, see § 7011 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-228, § 3, see § 7011 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 18-228. — For Law 18-228, see notes following § 4-1301.02.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 4-204.07.

Editor's notes.

Section 3 of D.C. Law 18-228 provided: "Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 7011 of D.C. Law 20-61 repealed D.C. Law 18-228, § 3.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

§ 4-1301.09a. Reasonable efforts.

(a) In determining and making reasonable efforts under this section, the child's safety and health shall be the paramount concern.

(b)(1) Except as provided in subsection (c) of this section, reasonable efforts shall be made to preserve and reunify the family by the Agency.

(2) These reasonable efforts shall be made prior to the removal of a child from the home in order to prevent or eliminate the need for removing the child, unless the provision of services would put the child in danger.

(3) Reasonable efforts shall be made to make it possible for the child to return safely to the child's home.

(c) If reasonable efforts as required by subsection (b) of this section are determined to be inconsistent with the child's permanency plan, the Agency shall make reasonable efforts to place the child in accordance with the child's

permanency plan and to complete whatever steps are necessary to finalize the child's permanent placement.

(d) The Agency shall not be required to make reasonable efforts to preserve and reunite the family with respect to a parent if:

(1) A court of competent jurisdiction has determined that the parent:

(A) Subjected the child who is the subject of a petition before the Family Court of the Superior Court of the District of Columbia ("Family Court"), a sibling of the child, or another child to cruelty, abandonment, torture, chronic abuse, or sexual abuse;

(B) Committed the murder or voluntary manslaughter of a sibling of the child who is the subject of a petition before the Family Court or another child, or of any other member of the household of the parent;

(C) Aided, abetted, attempted, conspired, or solicited to commit the murder or voluntary manslaughter of the child who is the subject of a petition before the Family Court, a sibling of the child, or another child, or of any other member of the household of the parent; or

(D) Committed an assault that constitutes a felony against the child who is the subject of a petition before the Family Court, a sibling of the child, or another child;

(2) The parent's parental rights have been terminated involuntarily with respect to a sibling; or

(3) A court of competent jurisdiction has determined that the parent is required to register with a sex offender registry under section 113(a) of the Adam Walsh Child Protection and Safety Act of 2006, approved July 27, 2006 (120 Stat. 593; 42 U.S.C. § 16913(a)).

(e) If reasonable efforts are not made pursuant to subsection (d) of this section:

(1) A permanency hearing conducted pursuant to § 16-2323 shall be held for the child within 30 days after the determination that reasonable efforts are not required; and

(2) Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(f) Reasonable efforts to place a child for adoption, with an approved kinship caregiver, with a legal custodian or guardian, or in another permanent placement may be made concurrently with the reasonable efforts required by subsection (b) of this section.

(Sept. 23, 1977, D.C. Law 2-22, title I, § 109a, as added June 27, 2000, D.C. Law 13-136, § 201(c), 47 DCR 2850; Apr. 4, 2001, D.C. Law 13-277, § 2(h), 48 DCR 2043; Apr. 12, 2005, D.C. Law 15-341, § 2(e), 52 DCR 2315; July 13, 2012, D.C. Law 19-164, § 2, 59 DCR 6185.)

Section references. — This section is referenced in § 16-2323 and § 16-2354.

Effect of amendments.

D.C. Law 19-164, in the lead-in language of subsec. (d), substituted "efforts to preserve and reunite the family" for "efforts"; in subsec. (d)(1)(A), substituted "the child who is the subject of a petition before the Family Court of the Superior Court of the District of Columbia ('Family Court'), a sibling of the child, or another child" for "a sibling or another child"; in subsec. (d)(1)(B), substituted "a sibling of the

child who is the subject of a petition before the Family Court" for "a sibling"; in subsec. (d)(1)(C), substituted "the child who is the subject of a petition before the Family Court, a sibling of the child, or another child" for "a sibling or another child"; in subsec. (d)(1)(D), substituted "Family Court, a sibling of the child, or another child;" for "Family Division of the Superior Court, a sibling of such a child, or another child; or"; in subsec. (d)(2), substituted "sibling; or" for "sibling."; and added subsec. (d)(3).

Legislative history of Law 19-164. — Law 19-164, the "Child Abuse Prevention and Treatment Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-466, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 17, 2012, it was assigned Act No. 19-374 and transmitted to both Houses of Congress for its review. D.C. Law 19-164 became effective on July 13, 2012.

PART C.

CHILD AND FAMILY SERVICES AGENCY.

§ 4-1303.03. Duties and powers of the Director.

(a) The Director of the Agency shall have the following duties and powers, any of which may be contracted for, as appropriate, with private or other public agencies:

(1) Receive and investigate reports of abuse or neglect as provided in subchapter II of this chapter, § 4-1301.04 and § 4-1301.06 and assist in the determination of the need for the removal of an abused or neglected child as provided in § 4-1301.07;

(2) Within 90 days of taking a child into custody pursuant to § 4-1303.04(c)(1), return the child to the home or to request that the Office of the Attorney General file a neglect petition in the Family Division of the Superior Court of the District of Columbia;

(3) To maintain a program of treatment and services for families of neglected and abused children including services designed to help children, where safe and appropriate, return to families from which they have been removed;

(4)(A) To prepare annually a plan for child protective services, which shall be reviewed and commented on by the Mayor's Committee on Child Abuse and Neglect, and which shall:

(i) Describe the Agency's implementation of the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850), including its organization, staffing, method of operations and financing, and programs and procedures for the receipt, investigation and verification of reports;

(ii) Describe the provisions for the determination of protective services and the treatment of ameliorative service needs, and the provision of such services;

(iii) State the guidelines for referrals to the Family Division of the Superior Court of the District of Columbia; and

(iv) State the provisions for monitoring, evaluation, and planning.

(B) The first plan shall be made available to the public within 90 days of June 27, 2000;

(5) To encourage and assist in the formation of child abuse and neglect teams in hospitals, health and mental health clinics, and other appropriate facilities in the District of Columbia; and

(6) To take whatever additional actions are necessary to accomplish the purposes of the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850).

(7) To provide services to families and children who are eligible for such services, consistent with the requirements of this subchapter, through programs of services to families with children, child protective services, foster care, and adoption;

(8) To maintain a 24-hour, 7-days-a-week intake component to receive reports of suspected child abuse or neglect. The intake component shall be staffed at all times by workers specially trained in intake and crisis intervention and shall maintain:

(A) The capacity for receiving reports and for responding promptly with investigation and emergency services;

(B) A widely publicized telephone number for receiving reports at all times; and

(C) Sufficient telephone lines and qualified staff so that all calls will be answered immediately by a trained worker;

(9) To receive reports of suspected child abuse and neglect;

(10) To conduct a social service investigation of alleged child abuse and neglect cases, including joint investigation with the Metropolitan Police Department;

(11) To provide and maintain, for families of children who have been abused or neglected, a program of treatment and services designed to promote the safety of children, reunification of families, and timely permanent placements;

(12) Repealed.

(13) To provide protective service clients appropriate services necessary for the preservation of families, or to contract with private or other public agencies for the purpose of carrying out this duty. These services may include:

(A) Emergency financial aid;

(B) Emergency caretakers;

(C) Homemakers;

(D) Family shelters;

(E) Emergency foster homes;

(F) Facilities providing medical, psychiatric, and other therapeutic services;

(G) Day care;

(H) Parent aides;

(I) Lay therapists; and

(J) Respite care;

(14) To offer rehabilitative services to the child's family in an effort to reunify the family when a child has been adjudicated a neglected child and placed in foster care;

(15) To immediately, upon court direction, implement the concurrent or alternative plan for the permanent placement of a child when time-limited

family reunification services, as defined in § 4-1301.02(19), have failed to reunite a child in foster care with his or her family or when § 16-2354 applies;

(16)(A) To request from a consumer reporting agency that compiles and maintain files on consumers on a nationwide basis and is nationally ranked among the top 3 such agencies, the disclosure of file information pursuant to section 609 of the federal Fair Credit Reporting Act, approved October 26, 1970 (84 Stat. 1131; 15 U.S.C. § 1681g), on behalf of a ward of the Agency under the age of 18 years to determine whether identify theft has occurred, when:

(i) An adoption petition has been filed in the Superior Court of the District of Columbia;

(ii) A motion for guardianship has been filed in the Superior Court of the District of Columbia; or

(iii) The Agency anticipates that the jurisdiction of the Family Court of the Superior Court of the District of Columbia will be terminated.

(B) The Agency shall provide the disclosed file information to the ward's guardian ad litem within 30 days of obtaining the results.

(C) For a ward over the age of 18 years, the Agency shall assist the ward if the ward wants to obtain disclosure of file information prior to the termination of the jurisdiction of the Family Court of the Superior Court of the District of Columbia.

(D) If the Agency determines that disclosed file information indicates that identity theft may have occurred, the Agency shall refer the ward to an approved organization that provides credit counseling to victims of identity theft; provided, that the Agency shall not be responsible for providing assistance beyond a referral.

(E) Within 120 days of May 27, 2010, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this paragraph. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 30-day review period, the proposed rules shall be deemed approved;

(17) To establish and maintain the Voluntary Foster Care Registry, established pursuant to § 4-1303.08 as a post-care service, for individuals 18 years or older who were or currently are respondents in a child abuse or neglect case under Chapter 23 of Title 16 and for their immediate birth family members, as defined in § 4-1303.08(g);

(18) To offer employment counseling to foster children, as defined by § 4-342(3), who are ages 18 through 21 years old; and

(19)(A) When requested by a foster child or former foster child who is 18 years of age or older, to provide a letter verifying the person's status as a foster child or former foster child pursuant to § 1-608.01(e-1); and

(B) To record and track the number of foster children or former foster children who request a letter from the Child and Family Services Agency verifying their status pursuant to subparagraph (A) of this paragraph.

(a-1) The Director of the Agency shall have the following additional duties and powers:

(1) To take into custody and place in shelter care, in accordance with subchapter I of Chapter 23 of Title 16, children who have been abused or neglected;

(2) To develop and test innovative models of practice consistent with the purposes of this subchapter;

(3) To develop programs that deliver a broad range of child and family services, including programs that involve the participation of community and neighborhood-based groups in prevention and intervention services;

(3A)(A) To issue grants to community and neighborhood-based groups for programs that deliver prevention and intervention services; provided, that the Director submits an annual report to the Council that includes the recipient, amount, purpose, and term of each grant issued, and a description of outcomes to be achieved and an evaluation of whether or not those outcomes have been achieved for each grant issued.

(B) A grant in excess of $1 million shall be submitted to the Council for approval in accordance with § 1-204.51.

(4) To facilitate:

(A) Permanent placement of a child, including reunification with original caretakers where such placement is consistent with the child's safety;

(B) Permanent placement with relatives; and

(C) Adoptive placement, as appropriate;

(5) To facilitate meetings for a child in foster care with parents, siblings, relatives, and extended family members;

(6) To provide other programs and services that are consistent with the purposes of this subchapter;

(7) To monitor and evaluate services to and needs of abused and neglected children and their families;

(8) To be the personnel authority for all employees of the Agency, including the exercise of full authority to hire, retain, and terminate personnel, consistent with Chapter 6 of Title 1;

(9) By delegation from the Mayor, and independent of the Office of Contracting and Procurement, to exercise procurement authority to carry out the purposes of the Agency, including contracting and contract oversight, consistent with Chapter 3A of Title 2 [§ 2-351.01 et seq.]; except, that § 2-352.01(a) shall not apply;

(10) Starting not later than October 1, 2001, and notwithstanding the licensing powers and responsibilities given to other District agencies and officials in subchapters I-A and I-B of Chapter 28 of Title 47, to be the exclusive agency to regulate foster and group homes for children who have been abused or neglected and to regulate child placement agencies for these children. For the purposes of this paragraph, the term "regulate" means all licensing, and related functions, except fire inspections and the issuance of certificates of occupancy and all inspections relating to those certificates;

(11) Starting not later than October 1, 2001, to be the "appropriate authority," under § 4-1421 for children who have been abused or neglected;

(12) To adopt regulations to carry out the purposes of this subchapter, in accordance with Chapter 5 of Title 2; and

(13) To take whatever additional actions are necessary to accomplish the purposes of this subchapter.

(b) The Agency, or the person or agency the Agency contracts with, shall:

(1) When a child is at risk of being removed from his or her home because of child abuse or neglect, provide family preservation services designed to help the child remain safely with his or her family;

(2) When a child has been adjudicated a neglected child and committed to the Agency, offer rehabilitative services to the child's family including time-limited family reunification services designed to help the child, where safe and appropriate, return to the family from which he or she has been removed;

(3) When time-limited family reunification services have failed to reunite a committed child and his or her family, take steps to implement a permanent plan of adoption or an alternative permanent plan for the child;

(4) Establish or attempt to secure priority access for protective service clients, by contract or agreement with private organizations, other public agencies, or other Agency units, to services necessary for the preservation or reunification of families which may include, but not be limited to:

(A) Emergency financial aid;

(B) Emergency caretakers;

(C) Homemakers;

(D) Family shelters and housing assistance;

(E) Emergency foster homes;

(F) Mental health services, including facilities providing medical, psychiatric, or other therapeutic services;

(G) Day care;

(H) Parent aides and lay therapists;

(I) Domestic violence services;

(J) Respite care; and

(K) Substance abuse assessment and treatment;

(5) Monitor and evaluate the services to, and the needs of, neglected children and their families;

(6) Compile and publish training materials; and

(7) Provide technical assistance on neglect prevention, identification, and treatment;

(8) Develop and implement, as soon as possible, standards that provide for quality services that protect the safety and health of children, for children who are removed from their homes;

(9) Develop and operate programs of family preservation services, family support services, time-limited family reunification services, and adoption promotion and support services;

(9A) Offer meeting facilitation services for extended family members when appropriate to meet permanency and safety goals as established by the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850);

(9B) Develop procedures and practices for cooperation and joint activities with the Metropolitan Police Department; and

(10) Prepare and submit to the Mayor, the Council, and the public a report to be submitted no later than February 1 of each year; which shall include:

(A) A description of the specific actions taken to implement the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850);

(B) A full statistical analysis of cases including:

(i) The total number of children in care, their ages, legal statuses, and permanency goals;

(ii) The number of children who entered care during the previous year (by month), their ages, legal statuses, and the primary reasons they entered care;

(iii) The number of children who have been in care for 24 months or longer, by their length of stay in care, including:

(I) A breakdown in length of stay by permanency goal;

(II) The number of children who became part of this class during the previous year; and

(III) The ages and legal statuses of these children;

(iv) The number of children who left care during the previous year (by month), the number of children in this class who had been in care for 24 months or longer, the ages and legal statuses of these children, and the reasons for their removal from care; and

(v) The number of children who left care during the previous year, by permanency goal; their length of stay in care, by permanency goal; the number of children whose placements were disrupted during the previous year, by placement type; and the number of children who re-entered care during the previous year;

(C) An analysis of any difficulties encountered in reaching the goal for the number of children in care established by the District;

(D) An evaluation of services offered, including specific descriptions of the family preservation services, community-based family support services, time-limited family reunification services, and adoption promotion and support services including:

(i) The service programs which will be made available under the plan in the succeeding fiscal year;

(ii) The populations which the program will serve; and

(iii) The geographic areas in which the services will be available;

(E) An evaluation of the Agency's performance;

(F) Recommendations for additional legislation or services needed to fulfill the purpose of the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850); and

(G) The comments submitted by a multidisciplinary committee that works to prevent child abuse and neglect and which the Mayor designates to receive and comment on the report.

(11) At all stages of a neglect case, the presumption shall be that a child will attend the same school that he or she would have attended but for the child's removal from his or her home, unless the Agency determines that it is not in the child's best interest to do so. The Agency shall determine the child's best interest in consultation with parents, when feasible, the child, resource providers, guardian ad litems, and other significant persons.

(c) The Director of the Agency shall implement the Protection of Children from Exposure to Drug-related Activity Amendment Act of 1989, effective March 15, 1990 (D.C. Law 8-87; 37 DCR 50). The Chief of the Division and the Director of the Department of Human Services shall provide the services authorized pursuant to this section to a child who is abused as a result of inadequate care, control, or diminished subsistence due to exposure to drug-related activity.

(d) The safety of the children being served shall be the paramount concern of the Agency in administering and conducting its duties and responsibilities under this section.

(Sept. 23, 1977, D.C. Law 2-22, title III, § 303, 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 3(e), 37 DCR 50; June 27, 2000, D.C. Law 13-136, § 201(d), 47 DCR 2850; Apr. 4, 2001, D.C. Law 13-277, § 2(o), 48 DCR 2043; Oct. 26, 2001, D.C. Law 14-42, § 13, 48 DCR 7612; Apr. 12, 2005, D.C. Law 15-341, § 2(i), 52 DCR 2315; Apr. 13, 2005, D.C. Law 15-354, § 95, 52 DCR 2638; July 18, 2008, D.C. Law 17-199, § 2, 55 DCR 6285; May 27, 2010, D.C. Law 18-162, § 2(b), 57 DCR 3029; Sept. 24, 2010, D.C. Law 18-230, § 301(a), 57 DCR 6951; Mar. 12, 2011, D.C. Law 18-312, § 2(b), 57 DCR 12398; July 13, 2012, D.C. Law 19-162, § 2, 59 DCR 5713; Sept. 26, 2012, D.C. Law 19-171, §§ 35, 208, 59 DCR 6190.)

Section references. — This section is referenced in § 4-1301.06, § 4-1303.03a, § 4-1303.04, and § 4-1303.05.

Effect of amendments.

D.C. Law 18-230, in subsec. (a), deleted "and" from the end of par. (15); substituted "; and" for a period at the end of par. (16), and added par. (17).

D.C. Law 18-312 added subsec. (b)(11).

D.C. Law 19-162 added subsecs. (a)(18) and (19).

The 2012 amendment by D.C. Law 19-171 validated the subsection designations in (a); and substituted "consistent with Chapter 3A of Title 2 et seq.; except, that § 2-352.01(a) shall not apply" for "consistent with Unit A of Chapter 3 of Title 2, except § 2-301.05(a), (b), (c), and (e)" in (a-1)(9).

Temporary Repeal of Section. — Section 110 of D.C. Law 19-226 repealed D.C. Law 18-230, § 701.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary (90 days) repeal of D.C. Law 18-230, § 701, see § 7012 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-230, § 701, see § 7012 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 18-230. — For Law 18-230, see notes following § 4-301.

Legislative history of Law 18-312. — For history of Law 18-312, see notes under § 4-1301.02.

Legislative history of Law 19-162. — Law 19-162, the "Foster Care Youth Employment Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-691, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 16, 2012, it was assigned Act No. 19-372 and transmitted to both Houses of Congress for its review. D.C. Law 19-162 became effective on July 13, 2012.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr.

17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Editor's notes.

Section 701 of D.C. Law 18-230 provided: "Sec. 701. Applicability. Title III of this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 7012 of D.C. Law 20-61 repealed D.C. Law 18-230, § 701.

LAW REVIEWS AND JOURNAL COMMENTARIES

"Combatting unnecessary family separation: How to seek court-ordered housing for families in the District of Columbia neglect system." 2 District of Columbia Law Review 25 (1993).

§ 4-1303.03d. Rapid Housing Program assistance.

(a) The Agency shall track and publicly report the number of emancipating youth and families who apply for or are referred for assistance under the Rapid Housing Program, the number of youth and families who are eligible for assistance, and the number of youth and families who receive assistance.

(b) The Agency shall maintain a waiting list of emancipating youth and families who are eligible but cannot receive assistance due to insufficient funds.

(Sept. 23, 1977, D.C. Law 2-22, § 303d as added Mar. 3, 2010, D.C. Law 18-111, § 5181, 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 36, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 2-22, § 303x as D.C. Law 2-22, § 303d.

Legislative history of Law 19-171. — See note to § 4-1303.03.

§ 4-1303.03e. Behavioral health screening and assessment requirements.

(a) All children in the custody of the Agency shall, to the extent that it is not inconsistent with a court order, receive a behavioral health screening and, if necessary, a behavioral health assessment within 30 days of initial contact with the Agency or a placement disruption. Through rulemaking, the Mayor may reduce the number of days within which a behavioral health screening and behavioral health assessment are required.

(b) The Agency shall connect all children who are assessed as being in need of behavioral health care to an appropriate behavioral health service.

(c) The Agency shall provide the behavioral health resource guide for parents and legal guardians and the behavioral health resource guide for youth created pursuant to § 7-1131.18 to families of children in Agency custody.

(Sept. 23, 1997, D.C. Law 2-22, § 303e, as added June 7, 2012, D.C. Law 19-141, § 505(b), 59 DCR 3083.)

Emergency legislation. — For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 4-1301.02.

Short title. — Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013."

Editor's notes. — Section 601 of D.C. Law 19-141 provided: "Sec. 601. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 7016 of D.C. Law 19-168 provided that Sections 7001, 7004, 7007, 7009, 7011, and 7015 of the act shall apply as of June 19, 2012.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

§ 4-1303.08. Voluntary Foster Care Registry.

(a) For the purposes of this section, the term:

(1) "Immediate birth family member" means a person 18 years of age or older who is the birth mother, father, or sibling of a registrant.

(2) "Registrant" means an individual, 18 years of age or older, who was, or currently is, a respondent in a child abuse or neglect case under Chapter 23 of Title 16 or his or her immediate birth family member.

(3) "Registry" means the Voluntary Foster Care Registry established by subsection (b) of this section.

(b) Within 180 days of September 24, 2010, the Agency shall establish the Voluntary Foster Care Registry ("Registry") for a registrant who seeks to reconnect with his or her immediate birth family member to place otherwise personal confidential information in the Registry to aid in that endeavor.

(c) To use the Registry, an applicant shall:

(1) Complete a registration form, which shall include:

(A) Proof that the applicant qualifies as a registrant, as defined in subsection (a) of this section, including the following information, to the extent known, pertaining to both the applicant and the individual being sought:

(i) Name;

(ii) Previous name;

(iii) Address;

(iv) Telephone number;

(v) Name of adoptive parents, if applicable; and

(vi) Name of birth mother and father;

(B) The name and address of the child placement agency that placed the child for adoption, if applicable; and

(C) A statement of consent to be identified to other registrants who are matched as immediate birth family members, including a statement whether the registrant consents to be identified to any immediate birth family member who registers or only to specific immediate birth family members. If the registrant consents to be identified only to specific immediate birth family members, the statement shall indicate by name or relationship which immediate birth family members for whom the consent is valid;

(2)(A) Except as provided in subparagraph (B) of the paragraph, pay a one-time fee, to be established by rule, which may be waived or reduced for individuals with verified income at or below the national poverty level.

(B) A registrant who, at the time he or she registers, is the respondent in an open neglect case under Chapter 23 of Title 16 shall not be required to pay a fee.

(d) A registrant shall provide changes in the information in the Registry occurring after registration to the Agency. The Agency shall timely input the updated information in the Registry.

(e) A registrant may withdraw from the Registry at any time by submitting a notarized affidavit to the Agency that contains the registrant's name and a request to be removed from the Registry.

(f)(1) Upon receipt of a completed registration and the applicable fee, the Agency, or its designee, shall search the Registry for potential matching immediate birth family members.

(2) In addition to the Registry search, the Agency may inquire into the records of:

(A) Child placement agencies;

(B) Local departments of social services;

(C) The court, which shall grant the Agency access to the court record upon receipt of a petition from the Agency that provides proof of consent of the parties to disclosure of the information, as evidenced in the registration forms, and states that review of the record is needed to make a match or to provide matching information; and

(D) The Vital Records Division of the Department of Health.

(3) Prior to releasing any identifying information to a registrant, the Agency shall verify that the registrant consents to have his or her identifying information released to a immediate birth family member who is a registrant. The Agency shall also obtain substantiation of a familial relationship from a reliable, independent third-party source, as established by rule and upon whom the Agency did not rely in conducting its search. A third-party independent source may include:

(A) The child placement agency that placed the child for adoption;

(B) The Vital Records Division of the Department of Health; or

(C) The Family Court of the Superior Court of the District of Columbia.

(4) A match shall be ascertained between the child and an immediate birth family member if:

(A) The child and the child's birth mother and birth father are registrants;

(B) The child and one or more birth siblings are registrants; or

(C) The child and only one birth parent are registrants.

(5) Information shall be provided regarding only those immediate birth family members who are registrants.

(g)(1) The Registry shall retain information and documents collected until the date specified by the registrant or for 99 years, whichever occurs first.

(2))(A) Registry documents and information shall be destroyed in accordance with the District procedure for disposal of confidential information.

(B) Information in the Registry may not be disclosed except as provided by this subchapter or regulations issued pursuant to this subchapter, or pursuant to a court order.

(h) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this section.

(Sept. 23, 1977, D.C. Law 2-22, title III. § 308, as added Sept. 24, 2010, D.C. Law 18-230, § 301(b), 57 DCR 6951.)

Section references. — This section is referenced in § 4-1303.03 and § 4-1303.09.

Temporary Repeal of Section. — Section 110 of D.C. Law 19-226 repealed D.C. Law 18-230, § 701.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary (90 days) repeal of D.C. Law 18-230, § 701, see § 7012 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-230, § 701, see § 7012 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 18-230. — For Law 18-230, see notes following § 4-301.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Editor's notes. — Section 701 of D.C. Law 18-230 provided: "Sec. 701. Applicability. Title III of this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 7012 of D.C. Law 20-61 repealed D.C. Law 18-230, § 701.

§ 4-1303.09. Voluntary Foster Care Registry Fund.

(a) There is established as a nonlapsing fund the Voluntary Foster Care Registry Fund ("VFCR Fund"), into which shall be deposited all fees collected pursuant to § 4-1303.08(c)(2)(A) and any gift or appropriation intended to assist in the funding of the Voluntary Foster Care Registry, which shall be solely used to cover the costs of administering the Voluntary Foster Care Registry.

(b) All funds deposited into the VFCR Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the purpose set forth in subsection (a) of

this section without regard to fiscal year limitation, subject to authorization by Congress.

(Sept. 23, 1977, D.C. Law 2-22, title III, § 309, as added Sept. 24, 2010, D.C. Law 18-230, § 301(b), 57 DCR 6951.)

Effect of amendments. — D.C. Law 18-230 added this section.

Temporary Repeal of Section. — Section 110 of D.C. Law 19-226 repealed D.C. Law 18-230, § 701.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary (90 days) repeal of D.C. Law 18-230, § 701, see § 7012 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-230, § 701, see § 7012 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 18-230. — For Law 18-230, see notes following § 4-301.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Editor's notes. — Section 701 of D.C. Law 18-230 provided: "Sec. 701. Applicability. Title III of this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 7012 of D.C. Law 20-61 repealed D.C. Law 18-230, § 701.

PART C-iii.

STATEMENTS OF RIGHTS AND RESPONSIBILITIES FOR YOUTH IN FOSTER CARE.

§ 4-1303.71. Definitions.

For the purposes of this part, the term "Youth" means an individual under 21 years of age who is in the care of the Agency.

(Sept. 23, 1977, D.C. Law 2-22, title III-C, § 371, as added Apr. 23, 2013, D.C. Law 19-276, § 2, 60 DCR 2060.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-276 added this section.

Emergency legislation. — For temporary addition of this part, see § 2 of the Foster Youth Statements of Rights and Responsibilities Emergency Amendment Act of 2012 (D.C. Act 19-622, January 22, 2013, 60 DCR 1338).

Legislative history of Law 19-276. — Law 19-276, the ""Foster Youth Statements of Rights and Responsibilities Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-803. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-640 and transmitted to Congress for its review. D.C. Law 19-276 became effective on April 23, 2013.

§ 4-1303.72. Statements of Rights and Responsibilities.

(a) Within 90 days of April 23, 2013, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall amend existing rules governing

youth in foster care, namely, 29 DCMR §§ 6004, 6203, and 6303, (Statement of Rights and Responsibilities for youth in foster homes, group homes, and independent living programs), to:

(1) Incorporate existing rights for youth in foster care provided by local law, federal law, local regulations, agency administrative issuances, and other policy documents; and

(2) State that a youth in foster care has the right to receive and have the youth's caregivers and guardians ad litem receive, if the youth is under 18 years of age, at least 30 days before leaving care, copies of the youth's:

(A) Birth certificate;
(B) Original social security card;
(C) State and District identification cards;
(D) Immunization records;
(E) Medical insurance information;
(F) Education portfolios and health records;
(G) Immigration documents; and
(H) Other personal information as the Mayor deems appropriate.

(b) Statements of Rights and Responsibilities required by subsection (a) of this section ("Statements of Rights and Responsibilities") shall guarantee that each youth will receive the following:

(1) A printed copy of the Statements of Rights and Responsibilities in readily understandable language;

(2) An explanation of each youth's right to be informed of all decisions made on the youth's behalf by the Agency;

(3) An explanation of each youth's right to report violations of the youth's rights to the Agency;

(4) The process for reporting rights violations to the Agency; and (5) An explanation of the process for contacting the Agency to make concerns about care, placement, and services.

(c) Proposed rules to implement this part shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed disapproved.

(Sept. 23, 1977, D.C. Law 2-22, title III-C, § 372, as added Apr. 23, 2013, D.C. Law 19-276, § 2, 60 DCR 2060.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-274 added this section.

Legislative history of Law 19-274. — See note to § 4-1303.71.

§ 4-1303.73. Dissemination of rights and responsibilities information.

(a) When a youth comes under the care of the Agency, the Agency shall inform the youth of the youth's rights and disseminate to the youth and the appropriate care providers the Statements of Rights and Responsibilities.

(b) The Agency shall disseminate the Statements of Rights and Responsi-

bilities and related information to youth and individuals who entered care before April 23, 2013.

(c) The Agency shall incorporate the Statements of Rights and Responsibilities into scheduled trainings for social workers and other affected partners, including providers, foster parents, and other persons who are associated with the care of youth.

(Sept. 23, 1977, D.C. Law 2-22, title III-C, § 373, as added Apr. 23, 2013, D.C. Law 19-276, § 2, 60 DCR 2060.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-274 added this section.

§ 4-1303.74. Implementation plan.

(a) Within 90 days of April 23, 2013, the Agency shall develop an implementation plan for the dissemination of the Statements of Rights and Responsibilities and a mechanism for receiving and handling complaints or concerns made by youth or on behalf of youth and provide a mechanism to resolve issues related to the youth's care, placement, and services through the Agency.

(b) The Agency shall have the following responsibilities regarding the implementation of this part:

(1) Investigate and attempt to promptly resolve concerns made by youth or on behalf of youth;

(2) Document the number, general sources and origins, and nature of the communication;

(3) Beginning January 31, 2014, and every January 31st thereafter, through the Director, make available to the Council a report containing data collected over the course of the prior year that includes the following information:

(A) The number of contacts made to the Agency by telephone, website address, or otherwise;

(B) The number of concerns made, including the type and general sources of those concerns;

(C) The number of investigations performed;

(D) The number of pending concerns; and

(E) The trends and issues that arose in the course of investigating concerns and outcomes of the investigations conducted; and

(4) Post the report required by paragraph (3) of this subsection on the Agency's website so that it is readily available to the public.

(Sept. 23, 1977, D.C. Law 2-22, title III-C, § 374, as added Apr. 23, 2013, D.C. Law 19-276, § 2, 60 DCR 2060.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-274 added this section.

PART F.

RULES.

§ 4-1306.01. Rules.

(a) The Mayor may, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this subchapter within 90 days of June 27, 2000. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(b) All existing rules and regulations promulgated pursuant to this subchapter shall remain in effect until the rules promulgated pursuant to subsection (a) of this section become effective.

(c) Notwithstanding subsection (a) of this section, the Mayor shall have full authority to enforce the provisions of subchapter.

(d)(1) Within 180 days of June 29, 2011, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the Families Together Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-228; 57 DCR 6926).

(2) The proposed rules shall be submitted to the Council for a 30 day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 30 day review period, the proposed rules shall be deemed approved.

(Sept. 23, 1977, D.C. Law 2-22, title VI, § 601, formerly § 341, as added June 27, 2000, D.C. Law 13-136, § 201(g), 47 DCR 2850; renumbered Mar. 2, 2007, D.C. Law 16-191, § 22(b), 53 DCR 6794; Sept. 24, 2010, D.C. Law 18-228, § 2(c), 57 DCR 6926; Sept. 14, 2011, D.C. Law 19-21, § 5052(b), 58 DCR 6226.)

Section references. — This section is referenced in § 4-1301.04.

Effect of amendments.

D.C. Law 18-228 added subsec. (d).

D.C. Law 19-21 rewrote subsec. (d)(1), which formerly read:

"(d)(1) Within 180 days of September 24, 2010, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement D.C. Law 18-228."

Temporary Repeal of Section. — Section 109 of D.C. Law 19-226 repealed D.C. Law 18-228, § 3.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary (90 days) repeal of D.C. Law 18-228, § 3, see § 7011 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-228, § 3, see § 7011 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 18-228. — For Law 18-228, see notes following § 4-1301.02.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 4-204.07.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

References in text. — The "Families Together amendment", referred to in subsection (d)(1) of this section, is D.C. Law 18-228.

Editor's notes. — Section 3 of D.C. Law 18-228 provided: "Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 7011 of D.C. Law 20-61 repealed D.C. Law 18-228, § 3.

Subchapter II. Reports of Neglected Children.

§ 4-1321.02. Persons required to make reports; procedure.

(a) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child, as defined in § 16-2301(9), shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(a-1) A person specified in subsection (b) of this section shall report to the Child and Family Services Agency any child who is age 5 through 13 years and who has 10 or more days of unexcused absences within a school year, as that term is defined in § 38-201(4).

(a-2) Expired.

(b) Persons required to report such abuse or neglect shall include Child and Family Services Agency employees, agents, and contractors, and every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, humane officer of any agency charged with the enforcement of animal cruelty laws, school official, teacher, athletic coach, Department of Parks and Recreation employee, public housing resident manager, social service worker, day care worker, human trafficking counselor as defined in § 14-311(2), domestic violence counselor as defined in § 14-310(a)(2), and mental health professional as defined in § 7-1201.01(11). Such persons are not required to report when employed by a lawyer who is providing representation in a criminal, civil, including family law, or delinquency matter and the basis for the suspicion arises solely in the course of that representation. Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law enforcement officer, [or] humane officer of any agency charged with the enforcement of animal cruelty laws, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency, that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 4-1321.03.

(e) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of "sexual abuse" or "attempted sexual abuse" prohibited by Chapter 30 of Title 22 [§ 22-3001 et seq.]; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in § 22-2701.01(3); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.

(f) A health professional licensed pursuant to Chapter 12 of Title 3 [§ 3-1201.01 et seq.], who in his or her own professional or official capacity knows that a child under 12 months of age is diagnosed as having a Fetal Alcohol Spectrum Disorder, shall immediately report or have a report made to the Child and Family Services Agency.

(g) A person who violates this section shall not be prosecuted under subchapter II-A of Chapter 30 of Title 22 [§ 22-3020.51 et seq.].

(Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 2; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(c), 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 2(a), 37 DCR 50; Mar. 2, 2007, D.C. Law 16-204, § 2, 53 DCR 9059; Apr. 24, 2007, D.C. Law 16-306, § 203(a), 53 DCR 8610; July 18, 2008, D.C. Law 17-198, § 3, 55 DCR 6283; Dec. 5, 2008, D.C. Law 17-281, § 102, 55 DCR 9186; Mar. 25, 2009, D.C. Law 17-353, §§ 173(a), 193, 240(b), 56 DCR 1117; Oct. 23, 2010, D.C. Law 18-239, § 202, 57 DCR 5405; Oct. 26, 2010, D.C. Law 18-242, § 2, 57 DCR 7555; July 13, 2012, D.C. Law 19-164, § 3, 59 DCR 6185; June 8, 2013, D.C. Law 19-315, § 2(a), 60 DCR 1702; Sept. 19, 2013, D.C. Law 20-17, § 302, 60 DCR 9839.)

Section references. — This section is referenced in § 3-1205.14, § 4-1301.06b, § 4-1451.06, § 16-1056, § 22-3020.52, § 38-203, and § 38-208.

Effect of amendments.

D.C. Law 19-164 added subsec. (f).

The 2013 amendment by D.C. Law 19-315 added (g).

The 2013 amendment by D.C. Law 20-17 amended (a-2)(3) to read "This subsection shall expire September 19, 2013."

Emergency legislation.

For temporary (90 days) amendment of this section, see §§ 301 and 302 of the Attendance Accountability Emergency Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

Legislative history of Law 19-164. — For

history of Law 19-164 see notes under § 4-1301.09a.

Legislative history of Law 19-315. — Law 19-315, the "Child Sexual Abuse Reporting Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-647. The Bill was adopted on first and second readings on Nov. 15, 2012 and Dec. 4, 2012, respectively. Signed by the Mayor on Jan. 22, 2013, it was assigned Act No. 19-627 and transmitted to Congress for its review. D.C. Law 19-315 became effective on June 8, 2013.

Legislative history of Law 20-17. — Law 20-17, the "Attendance Accountability Amendment Act of 2013", was introduced in Council and assigned Bill No. 20-72. The Bill was adopted on first and second readings on May 7, 2013 and June 4, 2013, respectively. Signed by the Mayor on June 24, 2013, it was assigned Act No. 20-94 and transmitted to Congress for its review. D.C. Law 20-17 became effective on September 19, 2013.

Editor's notes. — Applicability of D.C. Law 18-242: Section 4 of D.C. Law 18-242 provided:

"Sec. 4. Applicability.

"Section 2 shall apply as follows:

"(1) Subsection (a) shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

"(2) Subsection (b) shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 4 of D.C. Law 18-242 was repealed by D.C. Law 20-17, § 301.

§ 4-1321.07. Failure to make report.

Any person required to make a report under this subchapter who willfully fails to make such a report shall be fined not more than the amount set forth in § 22-3571.01, imprisoned not more than 180 days, or both. Violations of this subchapter shall be prosecuted by the Attorney General of the District of Columbia or his or her agent in the name of the District of Columbia.

(Nov. 6, 1966, Pub. L. 89-775, § 7; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(g), 24 DCR 3341; Apr. 24, 2007, D.C. Law 16-306, § 203(c), 53 DCR 8610; June 8, 2013, D.C. Law 19-315, § 2(b), 60 DCR 1702.)

Section references. — This section is referenced in § 16-801.

Effect of amendments.

The 2013 amendment by D.C. Law 19-315 rewrote this section, which formerly read: "Any person required to make a report under this subchapter who willfully fails to make such a report shall be fined not more than $300 or imprisoned for not more than 90 days or both. Violations of this subchapter shall be prosecuted by the Corporation Counsel of the District of Columbia or his or her agent in the name of the District of Columbia."

Legislative history of Law 19-315. — See note to § 4-1321.02.

Subchapter III-A. Integrated Funding and Services for At-Risk Children, Youth, and Families.

§ 4-1345.01. Definitions.

For the purposes of this subchapter, the term:

(1) "At-risk child or youth" means an individual who is less than 18 years of age and exhibits, is characterized by, or is subject to one or more of the following conditions:

(A) Abuse or neglect, as described in § 16-2301(9) and (23);

(B) Developmental disability, as that term is defined in § 21-1201(3);

(C) Delinquency, as described in § 16-2301(6);

(D) Homelessness, as described in § 4-751.01(18);

(D-i) Intellectual disability, as that term is defined in D.C. Official Code § 21-1201(4A).

(E) Mental illness, as that term is defined in § 21-501(5);

(F) Repealed.

(G) Poverty, as defined by the income eligibility guidelines set by the United States Department of Agriculture for the school lunch and school breakfast programs;

(H) Probation, as that term is defined in § 16-2301(18);

(I) School dropout, defined as not attending school without graduating from high school or completing an approved education program;

(J) Substance abuse, as that term is defined in § 7-3002(12);

(K) Teenage pregnancy; or

(L) Truancy, defined as 10 or more unexcused absences during a school semester.

(2) "At-risk family" means a family that exhibits, is characterized by, or is subject to one or more of the following conditions:

(A) Abuse or neglect, as described in § 16-2301(9) and (23);

(B) Homelessness, as described in § 4-751.01(18);

(C) Incarceration of a parent;

(D) Intrafamily violence, as described in § 16-1001(7) [now (9)];

(E) Mental illness, as that term is defined in § 21-501(5), of a parent or caregiver;

(F) Poverty, as defined by the income eligibility guidelines set by the United States Department of Agriculture for the school lunch and school breakfast programs;

(G) Substance abuse, as that term is defined in § 7-3002(12), of a parent or caregiver; or

(H) Teenage parenthood.

(3) "Child" means an individual who is less than 18 years of age.

(4) "Domestic partnership" shall have the same meaning as provided in § 32-701(4).

(5) "Family" means an adult or adults who share a residence with at least one child and are related by blood, legal custody, marriage, or domestic partnership.

(6) "Fund" means the Integrated Services Fund for At-Risk Children, Youth, and Families.

(7) "Local funding" means funding appropriated from tax and non-tax revenue raised by the District of Columbia government and not earmarked for a particular purpose.

(8) "Youth" means an individual who is at least 13 years of age and less than 18 years of age.

(Mar. 2, 2007, D.C. Law 16-192, § 5202, 53 DCR 6899; Mar. 25, 2009, D.C. Law 17-368, § 4(c), 56 DCR 1338; Sept. 26, 2012, D.C. Law 19-169, § 10, 59 DCR 5567.)

Section references. — This section is referenced in § 2-1594.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 added (1)(D-i); and repealed (1)(F), which formerly read: "Mental retardation, as that term is defined in § 21-1201(7)."

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was

introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter V. Child Fatality Review Committee.

§ 4-1371.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Child" means an individual who is 18 years of age or younger, or up to 21 years of age if the child is a committed ward of the child welfare, intellectual and developmental disabilities, or juvenile systems of the District of Columbia.

(2) "Committee" means the Child Fatality Review Committee.

(Oct. 3, 2001, D.C. Law 14-28, § 4602, 48 DCR 6981; Sept. 26, 2012, D.C. Law 19-169, § 11(a), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "intellectual" for "mental retardation" in (1).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 4-1371.05. Criteria for case review.

(a) The Committee shall be responsible for reviewing the deaths of children who were residents of the District of Columbia and of such children who, or whose families, at the time of death:

(1) Or at any point during the 2 years prior to the child's death, were known to the juvenile justice or intellectual disability or developmental disabilities systems of the District of Columbia; and

(2) Or at any point during the 4 years prior to the child's death, were known to the child welfare system of the District of Columbia.

(b) The Committee may review the deaths of nonresidents if the death is determined to be accidental or unexpected and occurs within the District.

(c) The Committee shall establish, by regulation, the manner of review of cases, including use of the following approaches:

(1) Multidisciplinary review of individual fatalities;

(2) Multidisciplinary review of clusters of fatalities identified by special category or characteristic;

(3) Statistical reviews of fatalities; or

(4) Any combination of such approaches.

(d) The Committee shall establish 2 review teams to conduct its review of child fatalities. The Infant Mortality Review Team shall review the deaths of children under the age of one year and the Child Fatality Review Team shall

review the deaths of children over the age of one year. Each team may include designated public officials with responsibilities for child and juvenile welfare from each of the agencies and entities listed in § 4-1371.04.

(e) Full multidisciplinary/multi-agency reviews shall be conducted, at a minimum, on the following fatalities:

(1) Those children known to the juvenile justice system;

(2) Those children who are known to the intellectual or developmental disabilities systems;

(3) Those children for which there is or has been a report of child abuse or neglect concerning the child's family;

(4) Those children who were under the jurisdiction of the Superior Court of the District of Columbia (including protective service, foster care, and adoption cases);

(5) Those children who, for some other reason, were wards of the District; and

(6) Medical Examiner Office cases.

(Oct. 3, 2001, D.C. Law 14-28, § 4605, 48 DCR 6981; Apr. 12, 2005, D.C. Law 15-341, § 4, 52 DCR 2315; Sept. 26, 2012, D.C. Law 19-169, § 11(b), 59 DCR 5567.)

Section references. — This section is referenced in § 4-1371.09.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" in (a)(1); and substituted "intellectual or developmental disabilities systems" for "mental retardation/developmental disabilities system" in (e)(2).

Legislative history of Law 19-169. — See note to § 4-1371.02.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 4-1371.06. Access to information.

(a) Notwithstanding any other provision of law, immediately upon the request of the Committee and as necessary to carry out the Committee's purpose and duties, the Committee shall be provided, without cost and without authorization of the persons to whom the information or records relate, access to:

(1) All information and records of any District of Columbia agency, or their contractors, including, but not limited to, birth and death certificates, law enforcement investigation data, unexpurgated juvenile and adult arrest records, intellectual and developmental disabilities records, medical examiner investigation data and autopsy reports, parole and probation information and records, school records, and information records of social services, housing, and health agencies that provided services to the child, the child's family, or an alleged perpetrator of abuse which led to the death of the child.

(2) All information and records (including information on prenatal care) of any private health-care providers located in the District of Columbia, including providers of mental health services who provided services to the deceased child, the deceased child's family, or the alleged perpetrator of abuse which led to the death of the child.

(3) All information and records of any private child welfare agency, educational facility or institution, or child care provider doing business in the District of Columbia who provided services to the deceased child, the deceased child's immediate family, or the alleged perpetrator of abuse or neglect which led to the death of the child.

(4) Information made confidential by §§ 4-1302.03, 4-1303.06, 7-219, 7-1203.02, 7-1305.12, 16-2331, 16-2332, 16-2333, 16-2335, and 31-3426.

(b) The Committee shall have the authority to seek information from entities and agencies outside the District of Columbia by any legal means.

(c) Notwithstanding subsection (a)(1) of this section, information and records concerning a current law enforcement investigation may be withheld, at the discretion of the investigating authority, if disclosure of the information would compromise a criminal investigation.

(d) If information or records are withheld under subsection (c) of this section, a report on the status of the investigation shall be submitted to the Committee every 3 months until the earliest of the following events occurs:

(1) The investigation is concluded;

(2) The investigating authority determines that providing the information will no longer compromise the investigation; or

(3) The information or records are provided to the Committee.

(e) All records and information obtained by the Committee pursuant to subsections (a) and (b) of this section pertaining to the deceased child or any other individual shall be destroyed following the preparation of the final Committee report. All additional information concerning a review, except statistical data, shall be destroyed by the Committee one year after publication of the Committee's annual report.

(Oct. 3, 2001, D.C. Law 14-28, § 4606, 48 DCR 6981; Sept. 26, 2012, D.C. Law 19-169, § 11(c), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "intellectual" for "mental retardation" in (a)(1).

Legislative history of Law 19-169. — See note to § 4-1371.02.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 4-1371.12. Persons required to make reports; procedure.

(a) Notwithstanding, but in addition to, the provisions of any law, including § 14-307 and Chapter 12 of Title 7, any person or official specified in subsection (b) of this section who has knowledge of the death of a child who died in the District of Columbia, or a ward of the District of Columbia who died outside the District of Columbia, shall as soon as practicable but in any event within 5 business days report the death or cause to have a report of the death made to the Registrar of Vital Records.

(b) Persons required to report child deaths pursuant to subsection (a) of this section shall include every physician, psychologist, medical examiner, dentist, chiropractor, qualified developmental disability professional, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, health professional licensed pursuant to Chapter 12 of Title 3, law-enforce-

ment officer, school official, teacher, social service worker, day care worker, mental health professional, funeral director, undertaker, and embalmer. The Mayor shall issue rules and procedures governing the nature and contents of such reports.

(c) Any other person may report a child death to the Registrar of Vital Records.

(d) The Registrar of Vital Records shall accept the report of a death of a child and shall notify the Committee of the death within 5 business days of receiving the report.

(e) Nothing in this section shall affect other reporting requirements under District law.

(Oct. 3, 2001, D.C. Law 14-28, § 4612, 48 DCR 6981; Sept. 26, 2012, D.C. Law 19-169, § 11(d), 59 DCR 5567.)

Section references. — This section is referenced in § 4-1371.14 and § 7-1203.02.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "developmental disability" for "mental retardation" in the first sentence of (b).

Legislative history of Law 19-169. — See note to § 4-1371.02.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 14. PLACEMENT OF CHILDREN IN FAMILY HOMES.

Subchapter I. General

Subchapter I. General.

§ 4-1410. Authority to charge or receive compensation for services; inability to pay adoption costs.

(a)(1) Except as provided in paragraph (2) of this subsection, neither the Mayor nor a child-placing agency authorized to perform services in connection with placement of a child in a family home for adoption may make or receive any charge or compensation for these services.

(2) A child-placing agency may charge an adoptive parent a reasonable fee if the child-placing agency is operating in the District of Columbia exclusively for religious purposes or as a nonprofit organization, pursuant to section 501(c) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)), and no part of its net earnings inure to the benefit of any private shareholder or individual.

(b)(1) A child-placing agency providing domestic or international adoption services that is authorized to charge a fee pursuant to subsection (a) of this section shall develop a sliding-fee scale based on the per capita income of the applicant and provide each applicant with:

(A) Its fee and refund policy;

(B) An estimate of the agency's maximum fee for specific services;

(C) Information regarding available public and private subsidies;

(D) Its sliding income fee scale; and

(E) A complete list of the services that it will provide at each stage of the adoption process.

(2) If a child-placing agency that charges a fee fails to implement and to maintain a sliding-fee scale as required by this subchapter, or rules issued pursuant to this subchapter, the failure shall be grounds for suspension or revocation of its license.

(c) Except for a reasonable, nonrefundable administrative fee, a child-placing agency shall not retain the fee paid by an adoptive parent unless the child-placing agency has provided the service.

(d) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this section, including the process for suspension and revocation of the license required to maintain a child-placing agency.

(Apr. 22, 1944, ch. 174, § 12; June 8, 1954, 68 Stat. 248, ch. 273, § 6; Apr. 23, 1980, D.C. Law 3-59, § 2(a), 27 DCR 983; Sept. 24, 2010, D.C. Law 18-230, § 201(e), 57 DCR 6951; Sept. 26, 2012, D.C. Law 19-171, § 34, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated the paragraph designations in (b)(1).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 17. ACCESS TO JUSTICE INITIATIVE PROGRAM.

Subchapter I. Definitions

Subchapter II. Access to Justice Initiative

Part C

Poverty Lawyer Loan Repayment Assistance Program

Subchapter I. Definitions.

§ 4-1701.01. Definitions.

For the purposes of this chapter, the term:

(1) "Adequate notice" means written notice of termination from eligible employment provided within 15 days of termination and separate written confirmation by the provider of eligible employment.

(2) "Adjusted gross income" shall have the same meaning as provided in § 47-1803.02(b).

(3) "Administrator" means the entity designated to administer the LRAP, established pursuant to § 4-1704.01.

(4) "Applicant" means an individual who applies for assistance from the LRAP.

(5) "ATJ" means the Access to Justice Grant Funding for Civil Legal Services.

(6) "Bar Foundation" means the District of Columbia Bar Foundation.

(7) "Deputy Mayor" means the Deputy Mayor for Public Safety and Justice or the Office of the Deputy Mayor for Public Safety and Justice, as the context requires.

(8) "Eligible debt" means outstanding principal, interest, and related expenses from loans obtained for reasonable educational expenses associated with obtaining a law degree made by government and commercial lending institutions or educational institutions, but does not include loans extended by a private individual or group of individuals, including families.

(9) "Eligible employment" means those areas of legal practice certified by the Administrator to serve the public interest, including employment with legal organizations that qualify for District of Columbia Bar Foundation funding, but does not include employment with the District of Columbia government or federal government or with or as the Administrator; and

(A) Working not less than 35 hours per week where such hours are fully devoted to eligible employment, hereinafter "full-time employment"; or

(B) Working not less than 17 hours per week where such hours are fully devoted to eligible employment, hereinafter "part-time employment."

(10) "Full-time employment" means not less than 35 hours of work per week.

(11) "Initiative" means the Access to Justice Initiative established pursuant to § 4-1702.01.

(12) "Involuntary termination" means termination for budgetary or inadequate funding reasons, as confirmed, in writing, by the eligible employer.

(13) "Lawyer" means a graduate of an accredited law school who is:

(A) Licensed to practice in the District of Columbia;

(B) Authorized under the provisions of Rule 49(c)(9) of the District of Columbia Court of Appeals to practice law before that court; or

(C) A member in good standing of the highest court of any state who has submitted an application for admission to the District of Columbia Bar.

(14) "LRAP" means the District of Columbia Poverty Lawyer Loan Repayment Assistance Program.

(15) "Participant" means an eligible lawyer whose application to the LRAP has been approved.

(16) "Reasonable educational expenses" means the cost of tuition for law school as well as the costs of education considered to be required by the school's degree program, such as fees for housing, transportation and commuting costs, books, supplies, and educational equipment and materials that are part of the estimated student budget of the school in which the participant was enrolled.

(17) "Service obligation" means the period of eligible employment necessary to sustain participation in the LRAP, which shall not be less than 45 weeks within the 12-month period for which the participant applied for assistance.

(Sept. 24, 2010, D.C. Law 18-223, § 101, as added Sept. 14, 2011, D.C. Law 19-21, § 3002(b), 58 DCR 6226; June 19, 2013, D.C. Law 19-320, § 504(a), 60 DCR 3390.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-320 added the semicolon and "and" to the end of (9); and added (9)(A) and (9)(B).

Emergency legislation. — For temporary amendment of (9), see § 504(a) of the Omnibus Public Safety and Justice Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 504(a) of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Subchapter II. Access to Justice Initiative.

PART C.

POVERTY LAWYER LOAN REPAYMENT ASSISTANCE PROGRAM.

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§ 4-1704.03. LRAP; participation eligibility.

(a) To be eligible to participate in the LRAP, an applicant shall, at the time of application and throughout participation in the LRAP:

(1) Hold, or actively plan to secure, eligible employment; provided, that a participant shall hold eligible employment before any payments may be disbursed;

(2) Be a resident of the District of Columbia;

(3) Be a lawyer;

(4) Have an annual adjusted gross income of less than $75,000, subject to a 3% annual increase beginning on October 1, 2013;

(5) Exhaust all other available avenues for loan repayment assistance, including through participation in any available undergraduate or law school debt-forgiveness programs;

(6) Have no current service obligation from scholarships;

(7) Submit a timely and completed application;

(8) Be in satisfactory repayment status on all eligible debt; and

(9) Execute a release to allow the Administrator access to records, credit information, and information from lenders necessary to verify eligibility of debt and to determine loan repayments.

(b) A law student attending the David A. Clarke School of Law at the University of the District of Columbia who is in his or her final year of school

may apply and be approved for loan repayment assistance if the applicant demonstrates that he or she will meet all eligibility requirements by the time of the first award disbursement.

(Sept. 24, 2010, D.C. Law 18-223, § 403, as added Sept. 14, 2011, D.C. Law 19-21, § 3002(b), 58 DCR 6226; June 19, 2013, D.C. Law 19-320, § 504(b), 60 DCR 3390.)

Section references. — This section is referenced in § 4-1704.05 and § 4-1704.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-320 substituted "$75,000, subject to a 3% annual increase beginning on October 1, 2013" for "$65,000" in (a)(4).

Emergency legislation. — For temporary amendment of (a)(4), see § 504(b) of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 504(b) of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

Legislative history of Law 19-320. — See note to § 4-1701.01.

TITLE 5. POLICE, FIREFIGHTERS, MEDICAL EXAMINER, AND FORENSIC SCIENCES.

Chapter 1. Metropolitan Police.

Subchapter I. Police Districts; Police Services Areas.

§ 5-101.03. General duties of Mayor.

LAW REVIEWS AND JOURNAL COMMENTARIES

"The Unnecessary Detention of Children in the District of Columbia—Pre-initial hearing detention: Are the Police Department and Social Services intake following the law?" 3 The District of Columbia Law Review 193 (1995).

Subchapter III. Personnel.

§ 5-105.01. Appointments; assignments; promotions; applicable civil service provisions; vacancies.

(a) The Mayor of said District shall appoint to office, assign to such duty or duties as he may prescribe, and promote all officers and members of said Metropolitan Police force; provided, that all officers, members, and civilian

employees of the force except the Chief of Police, the Assistant and Deputy Chiefs of Police, and the inspectors, shall be appointed and promoted in accordance with the provisions of §§ 1101—1103, 1105, 1301—1303, 1307, 1308, 2102, 2951, 3302—3306, 3318, 3319, 3321, 3361, 7152, 7321, 7322, and 7352 of Title 5, United States Code, and the rules and regulations made in pursuance thereof, in the same manner as members of the classified civil service of the United States; provided further, that the Assistant and Deputy Chiefs of Police and inspectors shall be selected from among the captains of the force and shall be returned to the rank of captain when the Mayor so determines: Provided further, that privates of class 1, if found efficient, shall serve 1 year on probation, privates of class 2 shall serve 2 years subsequent to service in class 1, and privates of class 3 shall include all those privates who have served efficiently 3 or more years. In order that the full complement of the Metropolitan Police force may at all times be maintained, as authorized by law, the Mayor of the District of Columbia is authorized, when vacancies occur in classes 2 and 3 of said Metropolitan Police force, which cannot be filled by promotion, to appoint privates in class 1 equal in number to the positions vacated in said classes 2 and 3; and the respective salaries specifically provided for such vacant positions may be reduced to pay the salaries of the privates so appointed to class 1.

(a-1)(1) The Mayor shall appoint the Chief of Police, with the advice and consent of the Council, pursuant to § 1-523.01(a).

(2) The Chief of Police may be selected for appointment from among the ranks of officers and members of the Metropolitan Police Department, or from outside the department.

(3) A person selected for appointment as Chief of Police from outside the department shall be paid from the DX Schedule for subordinate agency head positions pursuant to § 1-610.52 and, unless otherwise provided by law, shall be eligible to receive retirement and other benefits as prescribed in subchapter X-A of Chapter 6 of Title 1 [§ 1-610.51 et seq.].

(4) A person selected for appointment as Chief of Police from among the ranks of officers and members of the department shall be paid from the DX Schedule for subordinate agency heads pursuant to § 1-610.52 and, unless otherwise provided by law, shall be subject to the retirement provisions for officers and members of the Metropolitan Police Department.

(b)(1) The Chief of Police shall recommend to the Director of Personnel criteria for Career Service promotions and Excepted Service appointments to Inspector, Commander, and Assistant Chief of Police that address the areas of education, experience, physical fitness, and psychological fitness. The recommended criteria shall be the same for Career Service promotions and Excepted Service appointments to these positions. When establishing the criteria, the Chief of Police shall review national standards, such as the Commission on Accreditation for Law Enforcement Agencies.

(2) All candidates for the positions of Inspector, Commander, and Assistant Chief of Police shall be of good standing with no disciplinary action pending or administered resulting in more than a 14-day suspension or termination within the past 3 years.

(c) Effective April 21, 2003, Charles H. Ramsey, Chief of Police, shall serve in the capacity of Chief of Police for a term of 5 years, except that the Mayor may earlier terminate Chief Ramsey with or without cause.

(d) Effective January 1, 2012, Cathy L. Lanier, Chief of Police, whose appointment was extended by the Mayor on January 2, 2011 (Mayor's Order 2011-3), shall serve in the capacity of Chief of Police for a term of 5 years, except that the Mayor may earlier terminate Chief Lanier with or without cause.

(Feb. 28, 1901, 31 Stat. 819, ch. 623, § 1; June 8, 1906, 34 Stat. 221, ch. 3056; May 26, 1908, 35 Stat. 296, ch. 198; Dec. 5, 1919, 41 Stat. 363, ch. 1,§ 1; Sept. 30, 2004, D.C. Law 15-194, § 102, 51 DCR 9406; Mar. 2, 2007, D.C. Law 16-199, § 3, 53 DCR 8832; May 13, 2008, D.C. Law 17-154, § 3, 55 DCR 3678; Dec. 21, 2012, D.C. Law 19-205, § 2, 59 DCR 12472.)

Section references. — This section is referenced in § 1-610.58 and § 1-632.03.

Effect of amendments.

The 2012 amendment by D.C. Law 19-205 added (d).

Legislative history of Law 19-205. — Law 19-205, the "Retention Incentives for Chief of Police Cathy L. Lanier Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-778. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 10, 2012, it was assigned Act No. 19-480 and transmitted to Congress for its review. D.C. Law 19-205 became effective on Dec. 21, 2012.

§ 5-105.04. Probation period.

Section references. — This section is referenced in § 1-632.03.

CASE NOTES

Due process.

Fact that a terminated police officer was not, as he alleged in his complaint, entitled to advance written notification of reasons for his termination did not defeat the officer's theory of liability; the district's motion to dismiss the officer's claim based on a violation of the officer's Fifth Amendment right to due process was therefore subject to denial. Evangelou v. D.C., 901 F. Supp. 2d 159, 2012 U.S. Dist. LEXIS 158322 (D.D.C. Nov. 5, 2012).

Subchapter IV. Metropolitan Police Department Application, Appointment, and Training Requirements.

§ 5-107.04. Duties of the Board.

(a) The Board shall establish minimum application and appointment criteria for the Metropolitan Police Department that include the following:

(1) That an applicant be a citizen of the United States at the time of application;

(2) Age limits;

(3) Height and weight guidelines;

(4) Physical fitness and health standards;

(5) Psychological fitness and health standards;

(6) The completion of a criminal background investigation;

(7) The consideration to be placed on an applicant's participation in court-ordered community supervision or probation for any criminal offense at any time from application through appointment;

(8) The consideration to be placed on an applicant's criminal history, including juvenile records;

(9) The completion of a background investigation;

(10) Military discharge classification information; and

(11) Information on prior service with the Metropolitan Police Department.

(b) Notwithstanding the minimum standards established by the Board in accordance with subsection (a) of this section, the Chief of Police may deny employment to any applicant based upon conduct occurring while the applicant was a minor if, considering the totality of the circumstances, the Chief of Police determines that the applicant has not displayed the good moral character or integrity necessary to perform the duties of a sworn member of the Metropolitan Police Department.

(c) Each applicant selected for appointment as a sworn member of the Metropolitan Police Department shall successfully complete an initial training program and initial firearms training program before deployment, including minimum requirements developed by the Board, unless the applicant receives a waiver pursuant to subsection (e) of this section.

(d) The Board shall determine minimum requirements for the initial training program and initial firearms training program for Metropolitan Police Department recruits, including the appropriate sequence, content, and duration of each program, and:

(1) The minimum number of hours required;

(2) If and under what circumstances the initial training program will include temporary deployment of the applicant before regular deployment as a sworn member; and

(3) The subjects to be included as part of every applicant's initial training.

(e) The Chief of Police may modify or waive the initial training program and initial firearms training program requirements for either of the following:

(1) Any applicant who is a former sworn member of the Metropolitan Police Department who has been separated from employment with the Metropolitan Police Department for less than 3 years; or

(2) Any former member of a federal, state, or local law enforcement agency who has completed training similar to the Metropolitan Police Department's initial training program and initial firearms training program and who has been separated from employment with a federal, state, or local law enforcement agency for less than 3 years.

(f) The Board shall determine minimum requirements for a continuing education program for sworn members of the Metropolitan Police Department, including:

(1) Requirements for a continuing education firearms training program; and

(2) The appropriate consequence, including ineligibility for promotion, if a member fails to satisfy the continuing education requirement.

(g) The Metropolitan Police Department may utilize the services of other law enforcement agencies or organizations engaged in the education and training of law enforcement personnel to satisfy any portion of the initial training program, the initial firearms training program, or the continuing education program pursuant to this section.

(h) The Board shall establish the minimum requirements for any instructor of any component of the Metropolitan Police Department's initial training program, continuing education program, or firearms training program.

(i) The Board shall establish minimum selection and training standards for members of the District of Columbia Housing Authority Police Department.

(j) The Board shall also review and make recommendations to the Chief of Police, the Mayor, and the Council, regarding:

(1) The Metropolitan Police Department's tuition assistance program;

(2) The optimal probationary period for new members of the Metropolitan Police Department pursuant to subsection (q) of this section;

(3) The issue of creating separate career tracks for patrol and investigations;

(4) Minimum standards for continued level of physical fitness for sworn members of the Metropolitan Police Department; and

(5) The Metropolitan Police Department Reserve Corps program's training and standards.

(k) The minimum standards set by the Board pursuant to subsections (a), (d), (f), and (h) of this section shall not preclude the Metropolitan Police Department from establishing higher standards, including standards regarding its application, initial training, and continuing education programs at the department.

(l) The minimum standards set by the Board pursuant to subsection (i) of this section shall not preclude the District of Columbia Housing Authority Police Department from establishing higher standards.

(m) Not later than December 31 of each calendar year, the Board, through the Chief of Police, shall deliver a report to the Mayor and the Council concerning the Metropolitan Police Department's initial training program, continuing education program, and firearms training program. The report shall include:

(1) The number of:

(A) Applicants who have successfully completed the application process;

(B) Applicants who have completed the initial training program;

(C) Sworn members who have completed the continuing education and firearms training programs;

(2) An assessment of the Metropolitan Police Department's compliance with the Board's prescribed minimum standards for each of its application and training programs pursuant to this section;

(3) Recommendations where the Board believes that the Metropolitan Police Department's current standards for applicants, initial training including firearms training, and continuing education can be improved; and

(4) An overall assessment of the Metropolitan Police Department's cur-

rent and planned recruiting efforts in light of public safety needs in the District.

(n) The administrative work of the Board shall be carried out by members of the Metropolitan Police Department as appointed by the Chief of Police.

(o) Any applicant who met the age requirement at the time of application and who was denied appointment on the basis of racial discrimination, as determined by the Director of the Office of Human Rights, may be appointed notwithstanding the applicant's age at the time of that determination.

(p) Applications for appointment to the Metropolitan Police Department shall be made on forms furnished by the Metropolitan Police Department.

(q) Appointments to the Metropolitan Police Department shall be for a probationary period to be determined by the Chief of Police. Continuation of service after the expiration of that period shall be dependent upon the conduct of the appointee and his or her capacity for the performance of the duties to which assigned, as indicated by reports of superior officers. The probationary period shall be an extension of the examination period.

(r) If the Police and Fire Clinic shall find any probationer physically or mentally unfit to continue his or her duties, that probationer shall be required to appear before the Police and Firefighter's Retirement and Relief Board. That Board shall make any findings as are required pursuant to § 5-713, and those findings shall be incorporated in a recommendation submitted to the Mayor.

(s) Each police officer appointed shall maintain a level of physical fitness to be determined by the Chief of Police. The final determination with respect to inappropriate fitness levels shall be made by the Medical Director of the Police and Fire Clinic.

(t)(1) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this section.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within this 45-day review period, the proposed rules shall be deemed approved.

(Oct. 4, 2000, D.C. Law 13-160, § 205, 47 DCR 4619; Sept. 30, 2004, D.C. Law 15-194, § 302(b), 51 DCR 9406; June 19, 2013, D.C. Law 19-320, § 505, 60 DCR 3390.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-320 deleted "standards for applicants; continuing education program" from the section heading; and rewrote the section.

Emergency legislation. — For temporary amendment of section, see § 505 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 505 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act

No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Subchapter VII. Records.

PART A.

GENERAL — METROPOLITAN POLICE DEPARTMENT.

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§ 5-113.06. Records open to public inspection.

(a) Except as provided in subsection (c) of this section, the records to be kept by paragraphs (1), (2), and (4) of § 5-113.01 shall be open to public inspection when not in actual use, and this requirement shall be enforceable by mandatory injunction issued by the Superior Court of the District of Columbia on the application of any person.

(b) The name, address, date of birth, occupation, and photograph of any person convicted of a violation of Chapter 27 of Title 22, shall be made available to the public upon written request, in exchange for a reasonable fee established by the Mayor or his or her designee.

(c) Repealed.

(R.S., D.C., § 389; June 29, 1953, 67 Stat. 99, ch. 159, title III, § 301(b); Aug. 20, 1954, 68 Stat. 755, ch. 778, § 2; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(13); Oct. 25, 1972, 86 Stat. 1108, Pub. L. 92-543, § 1; May 24, 1996, D.C. Law 11-130, § 2, 43 DCR 1570; July 25, 2006, D.C. Law 16-144, § 3, 53 DCR 2838; Mar. 5, 2013, D.C. Law 19-207, § 2, 59 DCR 12507.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-207 repealed (c).

Legislative history of Law 19-207. — Law 19-207, the "Driver Privacy Protection Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-671. The Bill was adopted on first and second readings on June 26, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 23, 2012, it was assigned Act No. 19-487 and transmitted to Congress for its review. D.C. Law 19-207 became effective on Mar. 5, 2013.

Subchapter VII-A. Demand for Proof of Insurance from Motorists.

§ 5-114.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Accident" means an untoward and unforeseen occurrence out of the maintenance or use of:

(A) A motor vehicle;

(B) A vehicle operated or designed for operation upon a highway by power other than muscular power with respect only to any pedestrian or any occupant of that vehicle other than the owner or operator of that vehicle; or

(C) Any other vehicle covered by the insurance coverage required by § 31-2406.

(2) "Insurance Identification Card" means a current document issued by an insurer as proof of insurance for a motor vehicle that lists the name of the insurer, the policy number, the name of the insured, the period of coverage for the insurance, and the make, model, and vehicle identification number.

(3) "Insurer" means any person, company, or professional association licensed in the District of Columbia that provides motor vehicle liability protection or any self-insurer.

(4) "Law enforcement officer" means any officer of the Metropolitan Police Department, whether salaried or reserve, or of any other law enforcement agency operating in the District of Columbia with which the Metropolitan Police Department has an agreement authorizing its officers to enforce the provisions of this subchapter.

(5) "Motor vehicle" means any device propelled by an internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired. The term "motor vehicle" does not include traction engines used exclusively for drawing vehicles in fields, road rollers, vehicles propelled only upon rails and tracks, electric personal assistive mobility devices, as defined by § 50-2201.02(12), and battery-operated wheelchairs when operated by a person with a disability at speeds not exceeding 10 miles per hour.

(6) "Operator" means a person who drives or is in actual physical control of a motor vehicle or who is exercising control over or steering a motor vehicle being pushed or towed by a motor vehicle.

(7) "Owner" means any person, corporation, firm, agency, association, organization, or federal, state, or local government agency or other authority or other entity having the property or title to a vehicle or bicycle used or operated in the District; any registrant of a vehicle used or operated in the District; or any person, corporation, firm, agency, association, organization, or federal, state, or local government agency or authority or other entity in business or renting or leasing vehicles or bicycles to be used or operated in the District.

(8) "Proof of insurance" means a valid Insurance Identification Card for a District of Columbia resident or its equivalent for the resident of another state. Other documentation from an insurance company that constitutes reasonable proof of valid insurance being in effect shall be adequate evidence of proof of insurance.

(9) "Self-insurer" means any person having received a certificate of self-insurance issued by the Mayor pursuant to § 50-1301.79.

(June 8, 2006, D.C. Law 16-117, § 101, 53 DCR 2548; Sept. 26, 2012, D.C. Law 19-169, § 12, 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "person with a disability" for "handicapped person" in the second sentence of (5).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and

transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter X. Property.

§ 5-119.10. Sale at public auction; motor vehicle with lien of record; disposition of proceeds from sale.

(a) With respect to all property (including money), except perishable property, animals, firearms and property of persons with mental illness, not otherwise disposed of in accordance with § 5-119.09, that shall remain in the custody of the Property Clerk for not less than 90 days without being claimed and repossessed, the Property Clerk shall:

(1) Publish or cause to be published in a newspaper of general circulation in the District, once a week for 2 consecutive weeks:

(A) Notice of the location where a full description of the property can be reviewed; and

(B) Notice that if such property is not claimed by the rightful owner within 45 days from the date of 1st publication, title to the property shall revert to the finder of lost property after deduction for the expenses of custody and publication, or to the District of Columbia in all other cases; and

(2) Post or cause to be posted in the Metropolitan Police Department headquarters, where public notices are commonly or usually posted, a description of the property, and a copy of the notice published in the newspaper of general circulation in the District, and shall make a record of the date when such publication and the posting of the notices are made; and

(3) Post or cause to be posted on the Metropolitan Police Department website a description of the property, and a copy of the notice published in the newspaper of general circulation in the District, and shall make a record of the date when such publication and the posting of the notices are made.

(b) If neither the rightful owner nor the finder appear to claim the lost property, title to such property shall transfer to the District government and the property may be retained by the Mayor for official government use or may be sold at public auction at such place and time as the Property Clerk may direct and in such a manner as to expose to the inspection of bidders all property so offered for sale. The Property Clerk needs not offer any property for sale if, in the Property Clerk's opinion, the probable cost of sale exceeds the value of the property.

(c) The purchaser at any sale conducted by the Property Clerk pursuant to this section shall receive title to the property purchased, free from all claims of the rightful owner or the finder of the property and all persons claiming through and under the rightful owner or the finder. The Property Clerk shall execute all documents necessary to complete the transfer of title.

(d) All proceeds from any sale under this section shall be deposited in the General Fund of the District government.

(e) Repealed.

(f)(1) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the provisions of this section.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(R.S., D.C., § 417; Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12; Mar. 3, 1936, 49 Stat. 1158, ch. 121, § 2; Sept. 25, 1962, 76 Stat. 591, Pub. L. 87-691,§ 4; Mar. 5, 1981, D.C. Law 3-160, § 202, 27 DCR 5150; Sept. 29, 1988, D.C. Law 7-164, § 2, 35 DCR 5739; Sept. 9, 1989, D.C. Law 8-24, § 6(c)-(e), 36 DCR 4575; Oct. 28, 2003, D.C. Law 15-35, § 13(a), 50 DCR 6579; Apr. 24, 2007, D.C. Law 16-305, § 16, 53 DCR 6198; Sept. 20, 2012, D.C. Law 19-168, § 3002, 59 DCR 8025.)

Section references. — This section is referenced in § 5-119.06 and § 5-119.09.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote (a)(1)(A), which formerly read: "A description of the property; and"; added "a description of the property, and" in (a)(2); added (a)(3); and made a related change.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter XIV. General Powers and Duties.

§ 5-127.01. Conduct of force; power to fine, suspend and dismiss; written charges; opportunity to be heard; removal without trial; amendment of charges.

Section references. — This section is referenced in § 1-632.03.

LAW REVIEWS AND JOURNAL COMMENTARIES

"The Unnecessary Detention of Children in the District of Columbia—Pre-initial hearing detention: Are the Police Department and Social Services intake following the law?", 3 District of Columbia Law Review 193 (1995).

Subchapter XVI. Performing Police Band.

§ 5-131.03. Retirement of Director — Conditions; annuities.

(a) Notwithstanding the limitations of existing law, the person who is the Director of the Metropolitan Police Force band may elect to retire after having served 10 or more years in such capacity and having attained the age of 70 years. Upon such retirement, whether for age and service or for disability, said

Director and his surviving spouse or domestic partner, shall be entitled to receive annuities in amounts equivalent to, and under the conditions applicable to, the annuities which a captain in the Metropolitan Police force and his surviving spouse or domestic partner, may be entitled to receive after such captain has retired from said force for substantially the same reason as that for which said Director may retire, whether for age and service or for disability, as the case may be. If the said Director shall apply for retirement for disability, he shall not be eligible to retire under § 5-710, but he shall be eligible to apply for retirement under § 5-709, in like manner as if the said Director were an officer or member of the Metropolitan Police force. The annuities hereby authorized shall be in addition to any pension or retirement compensation which said Director may be entitled to receive from any other source, whether from the United States or otherwise. The annuities payable to said Director and his surviving spouse or domestic partner pursuant to this subchapter shall be payable from District of Columbia appropriations, but shall not be considered as annuities payable to an officer or member of the Metropolitan Police force or to the surviving spouse or domestic partner, of such officer or member. Appropriations for the operations of the Metropolitan Police Department are made available for this purpose. Annuities authorized by this section shall be computed on the basis of compensated service rendered after July 11, 1947.

(b) For the purposes of this section, the term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(July 11, 1947, ch. 226, § 3; Sept. 22, 1959, 73 Stat. 640, Pub. L. 86-356; Aug. 29, 1972, 86 Stat. 642, Pub. L. 92-410, title II, § 202(a); Sept. 12, 2008, D.C. Law 17-231, § 14, 55 DCR 6758; Sept. 26, 2012, D.C. Law 19-171, § 37(a), 59 DCR 6190.)

Section references. — This section is referenced in § 1-632.03.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "spouse or domestic partner" for "spouse, domestic partner" throughout (a).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 3. FEDERAL LAW ENFORCEMENT OFFICER COOPERATION WITH METROPOLITAN POLICE DEPARTMENT.

§ 5-301. Powers and duties of federal law enforcement officers when making arrests for nonfederal offenses.

(a) When a federal law enforcement agency has entered into a cooperative agreement with the Metropolitan Police Department of the District of Colum-

bia ("MPD") to assist MPD in carrying out crime prevention and law enforcement activities pursuant to § 5-133.17, a sworn federal law enforcement officer of a covered federal law enforcement agency as defined in § 5-133.17(d) ("federal officer"), who in his official capacity is authorized to make arrests, shall, when making an arrest in the District of Columbia for a nonfederal offense, have the same legal status and immunity from suit as an MPD officer if the arrest is made under the following circumstances:

(1) The federal officer has probable cause to believe that the person arrested has committed a felony;

(2) The federal officer has probable cause to believe that the person arrested has committed a misdemeanor; or

(3) The federal officer is rendering assistance to an MPD officer in an emergency at the request of that MPD officer.

(b) A sworn federal law enforcement officer of a covered federal law enforcement agency as defined in § 5-133.17(d), who in his official capacity is authorized to make arrests, may be authorized by the covered federal law enforcement agency to carry weapons within the boundaries of the District of Columbia while in an off-duty status provided that:

(1) The cooperative agreement authorizes the federal officer to carry weapons while in an off-duty status; and

(2) The federal officer has training substantially similar to the weapons training requirements of the MPD.

(May 9, 2000, D.C. Law 13-100, § 2, 46 DCR 794; June 19, 2013, D.C. Law 19-320, § 201, 60 DCR 3390.)

Section references. — This section is referenced in § 5-302.

Effect of amendments. — The 2013 amendment by D.C. Law 19-320 substituted "MPD" for "the Department" in the introductory language of (a); and substituted "has probable cause to believe that the person arrested has committed a misdemeanor" for "reasonably believes that the person arrested has committed a misdemeanor in his presence" in (a)(2).

Emergency legislation. — For temporary amendment of section, see § 201 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 201 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Chapter 3A. First Amendment Rights and Police Standards.

Subchapter I. First Amendment Assemblies.

§ 5-331.01. Short title.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.03. Policy on First Amendment assemblies.

Section references. — This section is referenced in § 5-331.04 and § 5-331.07.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.04. Reasonable time, place, and manner restrictions on First Amendment assemblies.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.05. Notice and plan approval process for First Amendment assemblies — Generally.

Section references. — This section is referenced in § 37-131.03.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.06. Notice and plan approval process for First Amendment assemblies — Processing applications — Appeals — Rules.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph

Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.07. Police handling and response to First Amendment assemblies.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.10. Documentation of arrests in connection with a First Amendment assembly.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.11. Use of handcuffs, plastic cuffs, or other physical restraints on persons arrested in connection with a First Amendment assembly.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.17. Construction.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

Subchapter III. Post-and-Forfeit Procedure.

§ 5-335.01. Enforcement of the post-and-forfeit procedure.

CASE NOTES

Analysis

Due process.
Right to counsel.
Standing.

Due process.

District of Columbia statute permitting arrestee to pay and forfeit fee for arrestee's immediate release from jail without prosecution did not violate arrestee's Fifth Amendment procedural or substantive due process rights as applied, where arrestee was given the choice to pay fee or remain in jail until presented to court and he could contest charges against him, including asserting lack of probable cause, for up to 90 days after availing himself of the fee. Fox v. District of Columbia, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 923 F. Supp. 2d 302, 2013 U.S. Dist. LEXIS 20524 (D.D.C. 2013).

District of Columbia statute permitting arrestee to pay and forfeit fee for arrestee's immediate release from jail without prosecution

did not warrant any additional procedure, and therefore, statute's procedure did not violate arrestee's Fifth Amendment procedural due process rights on its face, where arrestee was not required to pay, if he did pay, he had 90 days to re-think decision by moving to set aside forfeiture, and government had legitimate interests in preventing overcrowding of its jails and not expending its limited resources on prosecuting petty offenses. Fox v. District of Columbia, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 923 F. Supp. 2d 302, 2013 U.S. Dist. LEXIS 20524 (D.D.C. 2013).

District of Columbia statute permitting arrestee to pay and forfeit fee for arrestee's immediate release from jail without prosecution did not violate any fundamental principle of justice, as would violate Fifth Amendment procedural due process on its face, where arrestees were offered the choice to pay the fee and be released or stay in jail, arrestees had 90 days to re-think decision to pay, and payment did not result in record of conviction. Fox v. District of Columbia, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 923 F. Supp. 2d 302, 2013 U.S. Dist. LEXIS 20524 (D.D.C. 2013).

Right to counsel.

District of Columbia statute permitting arrestee to pay and forfeit fee for arrestee's immediate release from jail without prosecution did not violate his Sixth Amendment right to counsel in criminal prosecutions, where paying fee did not result in a criminal record, statute stated payment was not admission of guilt, and arrestee was permitted to consult with counsel later and move to set aside forfeiture. Fox v. District of Columbia, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 923 F. Supp. 2d 302, 2013 U.S. Dist. LEXIS 20524 (D.D.C. 2013).

Standing.

Arrestee had standing to bring § 1983 claims against District of Columbia, challenging under the Fourth, Fifth, Sixth, and Eighth Amendments, District law permitting him to post and forfeit collateral in return for his release from jail without prosecution; arrestee sought injunctive relief and relief on behalf of a class of persons who were subject in the past and who will be subject to law in the future. Fox v. District of Columbia, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 923 F. Supp. 2d 302, 2013 U.S. Dist. LEXIS 20524 (D.D.C. 2013).

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

Subchapter IV. Police Identifying Information.

§ 5-337.01. Police identifying information.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

CHAPTER 4. FIRE AND EMERGENCY SERVICES DEPARTMENT.

Subchapter I. General

Subchapter I. General.

§ 5-401. Area of service; division of District into fire companies; pre-hospital care and services; approval required for major changes in manner of fire protection.

(a) The Fire and Emergency Medical Services Department ("Department") shall provide fire prevention and fire protection within the geographical boundaries of the District of Columbia. The District shall be divided into such fire companies, and other units as the Council of the District of Columbia may from time to time direct. Major changes in the manner the Department provides fire protection and fire prevention shall be approved by resolution of the Council.

(b) The Department shall provide pre-hospital medical care and transport within the geographical boundaries of the District of Columbia. Major changes in the manner the Department provides emergency medical services shall be approved by resolution of the Council.

(c) The Department shall provide oversight to ensure the safety and security of DC Streetcar operations as provided in § 5-401.01.

(June 20, 1906, 34 Stat. 314, ch. 3443, § 1; Apr. 7, 1977, D.C. Law 1-111,§ 2, 23 DCR 9384; Apr. 15, 2008, D.C. Law 17-147, § 2(a), 55 DCR 2558; Mar. 25, 2009, D.C. Law 17-353, § 232, 56 DCR 1117; Sept. 20, 2012, D.C. Law 19-168, § 6012(a), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 38, 59 DCR 6190.)

Section references. — This section is referenced in § 5-401.01, § 7-2341.03, § 7-2341.07, and § 7-2341.23.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (c).

The 2012 amendment by D.C. Law 19-171 made a technical amendment to D.C. Law 17-147, § 2(a)(2), that did not change the text of this section.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2 of the Fire and Emergency Medical Services Major Changes Temporary Amendment Act of 2013 (D.C. Law 20-42, Dec. 21, 2013, 60 DCR 14716).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2 of the Fire and Emergency Medical Services Major Changes Emergency Act of 2013 (D.C. Act 20-150, August 5, 2013, 60 DCR 11817, 20 DCSTAT 2002).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 5-401.01. State safety oversight agency for DC Streetcar.

(a) The Fire and Emergency Medical Services Department is designated as the state safety oversight agency, as required by 49 C.F.R. § 659.9, and shall require, review, approve, and monitor the safety program for the DC Streetcar, established pursuant to § 50-921.04(2)(E).

(b) The Fire Chief shall issue rules, in accordance with Federal Transit Administration requirements listed in 49 C.F.R. § 659, to implement subsection (a) of this section and § 5-401(c).

(June 20, 1906, 34 Stat. 314, ch. 3443, § 1a, as added Sept. 20, 2012, D.C. Law 19-168, § 6012(b), 59 DCR 8025.)

Section references. — This section is referenced in § 5-401.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Legislative history of Law 19-168. — See note to § 5-401.

§ 5-402. Appointments and promotions covered by civil service; selection of Fire Chief and Deputy Fire Chiefs; original appointment and transfer of privates; vacancies.

Section references. — This section is referenced in § 1-632.03, § 7-2341.03, § 7-2341.07, and § 7-2341.23.

CASE NOTES

Final policy.

African-American members and officers of District of Columbia Fire and Emergency Medical Services (DCFEMS) who were seeking to hold District liable under § 1981 and § 1983 for denial of their reinstatement to Arson Investigation Unit after they were cleared of charges against them failed to demonstrate that District policy or custom caused their injuries; neither their immediate supervisor nor Deputy Fire Chief had final policymaking authority under D.C. law, and they failed to provide evidence that District was deliberately indifferent to violations of their constitutional rights. Hamilton v. District of Columbia, 852 F.Supp.2d 139, 2012 U.S. Dist. LEXIS 47808 (2012).

§ 5-405. Workweek established; hours of duty; days off duty; holidays.

(a) Beginning with the 1st day of the 1st pay period which begins not less than 120 days after enactment of this amendatory subsection or which begins on or after July 1, 1962, whichever is later, the Mayor of the District of Columbia is authorized and directed to establish a workweek for officers and members of the Firefighting Division of the Fire Department of the District of

Columbia which will result in an average workweek of not to exceed 48 hours during an administratively established workweek cycle which the Mayor is hereby authorized to establish from time to time.

(b) The Firefighting Division shall operate under a 2-shift system and all hours of duty of any shift shall be consecutive.

(c) The Mayor of the District of Columbia is further authorized and directed to establish a workweek for officers and members of the Fire Department, other than those in the Firefighting Division, of 40 hours, and the hours of work in such workweek shall be performed on consecutive days in such workweek: Provided, that notwithstanding the provisions of this subsection, the Mayor of the District of Columbia or his designated agent or agents may, whenever the exigencies of the Fire Department require temporary or short-term services of 1 or more officers or members, order such officer, officers, member, or members to perform such services.

(d) The days off duty to which each officer or member of the Fire Department is entitled shall be in addition to his annual leave and sick leave allowed by law. In the case of any shift of the Fire Department beginning on 1 day and extending without a break in continuity into the next day, or in the case of 2 shifts beginning on the same day, the Mayor is authorized to designate the shift which shall be the workday, and the entire shift so designated shall be considered the workday for all pay and leave purposes.

(e) If a holiday shall fall on any day off of any officer or member of the Fire Department, he shall be excused from duty on such other day as is designated by the Mayor of the District of Columbia, and if he is required to be on duty in lieu of such day off, he shall receive compensation for such duty at the rate provided by law for duty performed on a holiday. When any shift of the Fire Department begins on the day before a holiday and extends without a break in continuity into the holiday, or begins on a holiday and extends without a break in continuity into the next day, the Mayor of the District of Columbia is authorized to designate either of such shifts as the holiday workday, and the entire shift so designated shall be considered as the holiday workday for all pay and leave purposes. As used in this subsection, the word "holiday" shall have the same meaning as such word has in § 5-521.02, and as supplemented by § 6103 of Title 5, United States Code.

(f) For fiscal years 2011, 2012, 2013, and 2014, and except as provided in subsection (h) of this section, no member of the Fire and Emergency Medical Services Department, except for officers, shall work more than 204 hours in 2 consecutive pay periods.

(g) For fiscal years 2011, 2012, 2013, and 2014, and except as provided in subsection (h) of this section, no officer or member shall be permitted to earn overtime compensation for overtime work performed in a pay period after that officer or member has received sick leave in the same pay period.

(h) The restrictions in subsections (f) and (g) of this section shall not apply during pay periods 1 and 2 of calendar year 2013.

(June 19, 1948, 62 Stat. 498, ch. 530, § 2; Aug. 4, 1955, 69 Stat. 491, ch. 549, § 2; Oct. 5, 1961, 75 Stat. 830, Pub. L. 87-399, §§ 1, 2; Sept. 25, 1962, 76 Stat.

596, Pub. L. 87-697, §§ 1, 2; Oct. 21, 1965, 79 Stat. 1015, Pub. L. 89-282, § 2; Sept. 24, 2010, D.C. Law 18-223, § 3023, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 3013, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 3023, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 3053, 60 DCR 12472.)

Section references. — This section is referenced in § 1-632.03.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "fiscal years 2011, 2012, and 2013, and except as provided in subsection (h) of this section" for "fiscal years 2011 and 2012" in (f) and (g); and added (h).

The 2013 amendment by D.C. Law 20-61 substituted "2011, 2012, 2013, and 2014" for "2011, 2012, and 2013" in (f) and (g).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2 of the Fire and Emergency Medical Services Inaugural Overtime Clarification Emergency Act of 2013 (D.C. Act 20-20, March 1, 2013, 60 DCR 3976, 20 DCSTAT 478).

For temporary (90 days) amendment of this section, see the first § 3063 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 3053 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 5-401.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 3051 of D.C. Law 20-61 provided that Subtitle F of Title III of the act may be cited as the "Fire and Emergency Medical Services Overtime Limitation Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 5-409.01. Paramedic and emergency medical technician lateral transfer to Fire and Emergency Medical Services Department.

Section references. — This section is referenced in § 5-544.01 and § 5-704.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (a-1).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 5-417.01. Fire and arson investigation — Authority generally; authority to enter and examine; arrest and warrant powers.

Emergency legislation.

For temporary addition of D.C. Law 12-176, § 2a, concerning compliance with fire code and occupancy requirements, see § 506 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 5-417.02. Compliance with fire code and occupancy requirements — Authority, generally; authority to enter and examine; sanctions.

(a) The Fire Chief, the Fire Marshal, or his or her authorized representative shall have the authority to enter upon or examine any area, building or premises, vehicle or other thing during normal business hours to inspect for compliance with the District fire code, or enter any building at any time when there is probable cause to believe that the premises may be overcrowded.

(b) The Fire Chief, the Fire Marshal, or his or her authorized representative shall have the authority to sanction a restaurant or other public venue for failure to post a seating or occupancy capacity placard; provided, that no restaurant or public venue shall be liable for the resulting fine or penalty unless the Mayor has provided the seating or occupancy capacity placard to the owner of the premises.

(Mar. 26, 1999, D.C. Law 12-176, § 2a, as added June 19, 2013, D.C. Law 19-320, § 506, 60 DCR 3390.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-320 added this section.

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Subchapter II. Fire and Emergency Medical Services Training.

PART B.

EDUCATION AND TRAINING PROGRAM.

§ 5-441. Fire and Emergency Medical Services education and training program; certification of firefighters, paramedics, and emergency medical technicians.

(a) The Chief of the Fire and Emergency Medical Services Department shall design an education and training program that encompasses entry-level and in-service training and addresses issues such as skills with specialized equipment acquired to address special hazards, knowledge of new construction techniques, and emergency medicine skills for target audiences, such as persons with disabilities, the elderly, and very young. The education and training program shall be based upon the department's mission and operational performance measures.

(b) The Fire Chief, in close coordination with the Medical Director, shall develop and implement a program of certification for firefighters, paramedics, and emergency medical technicians.

(c) For fiscal years 2011, 2012, 2013, and 2014, no officer or member of the Fire and Emergency Medical Services Department shall be detailed to Emergency Medical Technician classes for more than 60 days.

(Sept. 30, 2004, D.C. Law 15-194, § 202, 51 DCR 9406; Apr. 24, 2007, D.C. Law 16-305, § 17, 53 DCR 6198; Apr. 15, 2008, D.C. Law 17-147, § 5, 55 DCR 2558; Sept. 24, 2010, D.C. Law 18-223, § 3024, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 3014, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 3024, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 3054, 60 DCR 12472.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "fiscal years 2011, 2012, and 2013" for "fiscal years 2011 and 2012" in (c).

The 2013 amendment by D.C. Law 20-61 substituted "2012, 2013, and 2014" for "2012, and 2013" in (c).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 3064 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 3054 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 5-401.

Legislative history of Law 20-61. — See note to § 5-405.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

CHAPTER 5. SALARIES.

Subchapter III. Salary Classifications

Part D

Longevity

Sec.

Subchapter III. Salary Classifications.

PART C.

METHOD OF APPOINTMENT, ADVANCEMENT, PROMOTION, AND DEMOTION.

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§ 5-543.02. Technicians' positions.

Section references. — This section is referenced in § 5-542.02, § 5-543.04, and § 5-545.06a.

CASE NOTES

Overtime pay.

The $595 annual stipend under District of Columbia statute for detective sergeants was part of plaintiffs' regular pay rate and had to be included in FLSA overtime calculation; District contended that stipend was not part of their basic compensation but rather was additional payment that should not be so included, but

FLSA mandated that regular rate include all remuneration for employment paid to, or on behalf of, employee unless it fell under one of eight expressly provided exclusions and District did not reference the exemptions, let alone argue that one of them applied to situation. Figueroa v. District of Columbia, 2012 WL 2367088 (2012).

PART D.

LONGEVITY.

§ 5-544.01. Service longevity.

(a)(1) In recognition of long and faithful continuous service, each officer and member in the active service on or after August 29, 1972, except for the Chief of Police and the Fire Chief, shall receive per annum, in addition to the rate of basic compensation prescribed in the salary schedule contained in § 5-541.01, an amount computed in accordance with the following table:

If an officer or member has completed at least:	**He shall receive per annum an amount, fixed to the nearest dollar, equal to:**
Fifteen years of continuous service.	Five per centum of the rate of basic compensation prescribed for service step 1 of the salary class of such salary schedule which he occupies.
Twenty years of continuous service.	Ten per centum of such compensation.
Twenty-five years of continuous service.	Fifteen per centum of such compensation.
Thirty years of continuous service.	Twenty per centum of such compensation.

(1A) Repealed.

(1B) Notwithstanding this subsection or any other provision of law, Cathy L. Lanier, Chief of Police, upon completion of 25 years of continuous service with the Metropolitan Police Department, effective September 24, 2015, shall receive in addition to her respective salary set in accordance with § 1-610.52, an amount computed by multiplying her salary by five per centum for her years of service.

(2) For purposes of paragraph (1) of this subsection, continuous service as an officer or member includes only those periods of his service determined to have been satisfactory service and any period of his service in the Armed Forces of the United States other than any period of such service:

(A) Determined not to have been satisfactory service;

(B) Rendered before appointment as an officer or member; or

(C) Rendered after resignation as an officer or member.

(3)(A) Subject to the availability of federal or local appropriations, each officer and member of the Metropolitan Police Department appointed on or before February 15, 1980, shall receive additional compensation in accordance with paragraph (1) of this subsection only as long as he remains in the active service. The additional compensation shall be paid in the same manner as the basic compensation to which such officer or member is entitled and shall be subject to the same deductions as basic compensation, but shall not be considered as salary for the purpose of computing insurance coverage under the provisions of Chapter 87 of Title V of the United States Code. The additional compensation shall be included for purposes of retirement annuity

calculations only for those officers and members who complete 20 years of active service prior to retirement. The District of Columbia and the Secretary of the Treasury are authorized to estimate the additional compensation for longevity for purposes of retirement annuity calculations for annuitants who retired on or after August 29, 1972, and on or before December 31, 2001. The District of Columbia and the Secretary of the Treasury are authorized to make payments based upon the use of such estimates. For the purpose of computing credit for service longevity in calculating retirement annuities pursuant to this subparagraph, active service includes any service that is creditable under § 5-704.

(B) Subject to the availability of federal or local appropriations, each officer and member of the Metropolitan Police Department appointed after February 15, 1980, shall receive additional compensation in accordance with paragraph (1) of this subsection only as long as he remains in the active service. The additional compensation shall be paid in the same manner as the basic compensation to which the officer or member is entitled and shall be subject to the same deduction as basic compensation, but shall not be considered as salary for the purpose of computing insurance coverage under the provisions of Chapter 87 of Title V of the United States Code. Such additional compensation shall be included for purposes of retirement annuity calculations only for those officers and members who complete 25 years of active service prior to retirement. The District of Columbia and the Secretary of the Treasury are authorized to estimate the additional compensation for longevity for purposes of retirement annuity calculations for annuitants who retired on or after August 29, 1972, and on or before December 31, 2001. The District of Columbia and the Secretary of the Treasury are authorized to make payments based upon the use of such estimates. For the purpose of computing credit for service longevity in calculating retirement annuities pursuant to this subparagraph, active service includes any service that is creditable under § 5-704.

(B-1) Each member of the Fire Service shall receive additional compensation in accordance with paragraph (1) of this subsection only as long as the member remains in the active service. The additional compensation shall be paid in the same manner as the basic compensation to which the member is entitled and shall be subject to the same deductions as basic compensation. The service longevity payment shall be considered basic compensation for the purposes of retirement, calculation of survivor benefits and annuities under § 5-716, life insurance, and other forms of premium pay, for each member who retires on or after February 15, 1980. For the purpose of computing credit for service longevity in calculating retirement annuities pursuant to this subparagraph, active service includes any service that is creditable under § 5-704.

(B-2) For the purposes of retirement benefits based on the service longevity compensation provided for in this paragraph, the District government shall be liable financially only for District contributions to and payments from the District of Columbia Police Officers and Fire Fighters' Retirement Fund, established by § 1-712, for those benefits accrued or earned on or after July 1, 1997.

(C) Subject to the availability of federal or local appropriations, § 5-745(c) and (e) shall not apply to compensation for service longevity provided for in this paragraph.

(4) This subsection shall not apply to officers and members of the United States Secret Service Uniformed Division or the United States Park Police.

(b) Notwithstanding any other provision of this or any other law, individuals retired from active service prior to the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972, and who are entitled to receive a pension relief allowance or retirement compensation under subchapter I of Chapter 7 of this title, shall not be entitled to receive an increase in their pension relief allowance or retirement compensation by reason of the enactment of this section.

(c) Notwithstanding any other provision of this or any other law, each Deputy Chief of the Metropolitan Police force and of the Fire Department of the District of Columbia shall, upon completion of 30 years of continuous service on the police force or Fire Department, as the case may be, be placed in, and receive basic compensation at, the highest service step in the salary class to which his position is assigned in the salary schedule contained in § 5-541.01. For purposes of this subsection, in computing a Deputy Chief's continuous service on the police force or Fire Department, there shall be included only those periods of his service determined to have been satisfactory service and any period of his service in the Armed Forces of the United States other than any period of such service:

(1) Determined not to have been satisfactory service;

(2) Rendered before appointment as an officer or member; or

(3) Rendered after resignation as an officer or member.

(d)(1) Notwithstanding any other law or regulation, employees appointed pursuant to § 1-610.72 shall be eligible for compensation in accordance with this section.

(2) Notwithstanding any other law or regulation, for employees appointed pursuant § 1-610.72, years of law enforcement experience shall constitute years of continuous service to the District of Columbia for purposes of this section.

(e) For employees transferred pursuant to § 5-409.01, any continuous prior service with the District of Columbia Fire and Emergency Medical Services Department shall constitute years of continuous service to the District of Columbia for the purposes of this section.

(Aug. 1, 1958, 72 Stat. 484, Pub. L. 85-584, title IV, § 401; Oct. 24, 1962, 76 Stat. 1243, Pub. L. 87-882, § 3(d); Sept. 2, 1964, 78 Stat. 882, Pub. L. 88-575, title I, § 105; May 27, 1968, 82 Stat. 144, Pub. L. 90-320, § 3; June 30, 1970, 84 Stat. 356, Pub. L. 91-297, title I, § 106; Aug. 29, 1972, 86 Stat. 638, Pub. L. 92-410, title I, § 110; 1973 Ed., § 4-832; Sept. 3, 1974, 88 Stat. 1037, Pub. L. 93-407, title I, § 101(a)(8), (9); May 9, 2000, D.C. Law 13-101, § 2, 47 DCR 1354; Oct. 4, 2000, D.C. Law 13-160, § 103(h), 47 DCR 4619; Dec. 21, 2000, 114 Stat. 2763, Pub. L. 106-554, § 1(a)(4), H.R. 5666 § 904(c); Oct. 3, 2001, D.C. Law 14-28, § 204, 48 DCR 6981; Oct. 19, 2002, D.C. Law 14-213, § 10, 49 DCR

8140; Mar. 13, 2004, D.C. Law 15-105, § 37(b), 38(a), 51 DCR 881; Mar. 30, 2004, D.C. Law 15-125,§ 2, 51 DCR 1545; Mar. 6, 2007, D.C. Law 16-223, § 202, 53 DCR 10221; May 13, 2008, D.C. Law 17-154, § 6(b), 55 DCR 3678; Feb. 24, 2012, D.C. Law 19-83, § 3, 58 DCR 11024; Dec. 21, 2012, D.C. Law 19-205, § 4, 59 DCR 12472.)

Section references. — This section is referenced in § 5-545.06a and § 5-723.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-205 added (1B).

Legislative history of Law 19-205. — Law 19-205, the "Retention Incentives for Chief of Police Cathy L. Lanier Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-778. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 10, 2012, it was assigned Act No. 19-480 and transmitted to Congress for its review. D.C. Law 19-205 became effective on Dec. 21, 2012.

CHAPTER 6A. POLICE AND FIREFIGHTERS LIMITED DUTY.

Subchapter II. Fire and Emergency Medical Services Employee Presumptive Disability

Subchapter I. General.

§ 5-631. Definitions.

Editor's notes.

Because of the codification of D.C. Law 15-194, Subtitle D as subchapter II of this chapter, the preexisting text, §§ 5-631 through 5-635, has been designated as subchapter I.

Subchapter II. Fire and Emergency Medical Services Employee Presumptive Disability.

§ 5-651. Definitions. [Not funded].

[Not funded].

(Sept. 30, 2004, D.C. Law 15-194, § 651, as added May 1, 2013, D.C. Law 19-311, § 2, 60 DCR 3425.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-311 added this section.

Legislative history of Law 19-311. — Law 19-311, the "Fire and Emergency Medical Services Employee Presumptive Disability Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-616. The Bill was adopted on first and second readings on December 4, 2012, and December 18, 2012, respectively. Signed by the Mayor on February 13, 2013, it was assigned Act No. 19-679 and transmitted to Congress for its review. D.C. Law 19-311 became effective on May 1, 2013.

Editor's notes. — Section 656 of D.C. Law 15-194, as added by D.C. Law 19-311, § 2, provided that this subchapter shall apply upon the inclusion of its fiscal effect in an approved

budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 5-652. Presumption as to disability or death from heart disease, hypertension, or respiratory disease. [Not funded].

[Not funded].

(Sept. 30, 2004, D.C. Law 15-194, § 652, as added May 1, 2013, D.C. Law 19-311, § 2, 60 DCR 3425.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-311 added this section.

Legislative history of Law 19-311. — See note to § 5-651.

Editor's notes. — Section 656 of D.C. Law 15-194, as added by D.C. Law 19-311, § 2, provided that this subchapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 5-653. Presumption as to disability or death from cancer. [Not funded].

[Not funded].

(Sept. 30, 2004, D.C. Law 15-194, § 653, as added May 1, 2013, D.C. Law 19-311, § 2, 60 DCR 3425.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-311 added this section.

Legislative history of Law 19-311. — See note to § 5-651.

Editor's notes. — Section 656 of D.C. Law 15-194, as added by D.C. Law 19-311, § 2, provided that this subchapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 5-654. Presumption as to disability or death from infectious disease. [Not funded].

[Not funded].

(Sept. 30, 2004, D.C. Law 15-194, § 654, as added May 1, 2013, D.C. Law 19-311, § 2, 60 DCR 3425.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-311 added this section.

Legislative history of Law 19-311. — See note to § 5-651.

Editor's notes. — Section 656 of D.C. Law 15-194, as added by D.C. Law 19-311, § 2, provided that this subchapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 5-655. Disqualification from presumption as to disability or death. [Not funded].

[Not funded].

(Sept. 30, 2004, D.C. Law 15-194, § 655, as added May 1, 2013, D.C. Law 19-311, § 2, 60 DCR 3425.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-311 added this section.

Legislative history of Law 19-311. — See note to § 5-651.

Editor's notes. — Section 656 of D.C. Law 15-194, as added by D.C. Law 19-311, § 2, provided that this subchapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 5-656. Applicability. [Not funded].

[Not funded].

(Sept. 30, 2004, D.C. Law 15-194, § 656, as added May 1, 2013, D.C. Law 19-311, § 2, 60 DCR 3425.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-311 added this section.

Legislative history of Law 19-311. — See note to § 5-651.

Editor's notes. — Section 656 of D.C. Law 15-194, as added by D.C. Law 19-311, § 2, provided that this subchapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

CHAPTER 7. POLICE AND FIREFIGHTERS RETIREMENT AND DISABILITY.

Subchapter I. Retirement and Disability, 1916

Subchapter I. Retirement and Disability, 1916.

§ 5-701. Definitions.

Wherever used in this subchapter:

(1)(A) The term "member" means any officer or member of the Metropolitan Police force, of the Fire Department of the District of Columbia, of the United States Park Police force, of the United States Secret Service Uniformed Division, and any officer or member of the United States Secret Service Division to whom this subchapter shall apply, but does not include an officer or member of the United States Park Police force, of the United States Secret

Service Uniformed Division, or of the United States Secret Service Division, whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986, and who is not excluded from coverage under chapter 84 of title 5, United States Code, by operation of § 8402 of such title.

(B) [Not funded].

(2) The terms "disabled" and "disability" mean disabled for useful and efficient service in the grade or class of position last occupied by the member by reason of disease or injury, not due to vicious habits or intemperance as determined by the Board of Police and Fire Surgeons, or willful misconduct on his part as determined by the Mayor.

(3) The term "widow" means the surviving wife of a member or former member if:

(A) She was married to such member or former member:

(i) While he was a member; or

(ii) For at least 1 year immediately preceding his death; or

(B) She is the mother of issue by such marriage.

(4) The term "widower" means the surviving husband of a member or former member if, in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if:

(A) He was married to such member or former member:

(i) While she was a member; or

(ii) For at least 1 year immediately preceding her death; or

(B) He is the father of issue by such marriage.

(5)(A) The term "child" means an unmarried child, including:

(i) An adopted child; and

(ii) A stepchild or recognized natural child who lives with the member in a regular parent-child relationship, under the age of 18 years; or

(iii) Such unmarried child regardless of age who, because of physical or mental disability incurred before the age of 18, is incapable of self-support.

(B) The term "student child" means an unmarried child who is a student between the ages of 18 and 22 years, inclusive, and who is regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

(6) The term "basic salary" means regular salary established by law or regulation, including any differential for special occupational assignment, but shall not include overtime, holiday, or military pay.

(7) The term "annuitant" means any former member who, on the basis of his service, has met all requirements of this subchapter for title to annuity and has filed claim therefor.

(8) The term "survivor" means a person who is entitled to annuity under this subchapter based on the service of a deceased member or of a deceased annuitant.

(9) The term "survivor annuitant" means a survivor who has filed claim for annuity.

(10) The term "police or fire service" means all honorable service in the Metropolitan Police Department, United States Secret Service Uniformed Division, Fire Department of the District of Columbia, the United States Park Police force, and the United States Secret Service Division coming under the provisions of this act.

(11) The term "military service" means honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, but shall not include service in the National Guard except when ordered to active duty in the service of the United States.

(12) The term "Mayor" means the Mayor of the District of Columbia or his designated agent or agents.

(13) The term "service" means employment which is creditable under § 5-704.

(14) The term "government" means the executive, judicial, and legislative branches of the United States government, including government owned or controlled corporations and Gallaudet College, and the municipal government of the District of Columbia.

(15) The term "government service" means honorable active service in the executive, judicial, or legislative branches of the United States government, including government owned or controlled corporations, and Gallaudet College, and the municipal government of the District of Columbia, and for which retirement deductions, other than social security deductions, were made.

(16) The term "department" means any part of the executive branch of the United States government, or any part of the government of the District of Columbia whose members come under this act.

(17) The term "average pay" means the highest annual rate resulting from averaging the member's rates of basic salary in effect over any 36 consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the 90-day period beginning on November 17, 1979, or over any 12 consecutive months of police or fire service in the case of any other member, with each rate weighted by the time it was in effect, except that if the member retires under § 5-710 and if on the date of his retirement under the section he has not completed 12 consecutive months or 36 consecutive months, as the case may be, of police or fire service, such term means his basic salary at the time of his retirement.

(18) The term "adjusted average pay" means the average pay of a member who was an officer or member of the United States Secret Service Uniformed Division, the United States Secret Service Division, the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one tenth of 1%) in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies; except that in the case of members hired on or after the first day of the first pay period that begins after October 29, 1996, the increase shall not exceed 3% per annum.

(19) The term "full range of duties" means the ability of a sworn member of the Metropolitan Police Department or the Fire and Emergency Medical Services Department to perform all of the essential functions of police work or fire suppression as determined by the established policies and procedures of the Metropolitan Police Department or the Fire and Emergency Medical Services Department and to meet the physical examination and physical agility standards established under §§ 5-107.02a and 5-451.

(20) The term "Internal Revenue Code" or "Internal Revenue Code of 1986" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.).

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(a); as added Aug. 21, 1957, 71 Stat. 391, Pub. L. 85-157, § 3; Oct. 26, 1970, 84 Stat. 1136, Pub. L. 91-509, §§ 1(1), (2); Dec. 7, 1970, 84 Stat. 1392, Pub. L. 91-532, § 1(a); Aug. 29, 1972, 86 Stat. 641, Pub. L. 92-410, title II, § 201(a)(1); Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(a), (d)(1); Oct. 1, 1976, D.C. Law 1-87, § 8(a), 23 DCR 2544; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 96-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 201, 206(a)(2); Jan. 8, 1988, 101 Stat. 1745, Pub. L. 100-238, § 103(d); Feb. 5, 1994, D.C. Law 10-68, § 13, 40 DCR 6311; Nov. 19, 1995, 109 Stat. 504, Pub. L. 104-52, § 630(a); Apr. 9, 1997, D.C. Law 11-218, § 2(a), 43 DCR 6172; Sept. 30, 2004, D.C. Law 15-194, § 602(a), 51 DCR 9406; Mar. 2, 2007, D.C. Law 16-191, § 26, 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-356, § 3(a), 56 DCR 1614; May 1, 2013, D.C. Law 19-314, § 2(a), 60 DCR 3466.)

Section references. — This section is referenced in § 1-632.03, § 1-702, § 1-712, § 1-732, § 1-901.02, § 5-631, § 5-702, § 5-704, § 7-2203, § 10-505.03, and § 10-505.04.

Effect of amendments.

The 2013 amendment by D.C. Law 19-314 added (20).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2(a) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-314. — Law 19-314, the "Police and Firefighter's Retirement and Disability Omnibus Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-1019. The Bill was adopted on first and second readings on December 4, 2012 and December 18, 2012, respectively. Signed by the Mayor on March 1, 2013, it was assigned Act No. 19-682 and transmitted to Congress for its review. D.C. Law 19-314 became effective on May 1, 2013.

CASE NOTES

ANALYSIS

Performance of duties.
Review.

Performance of duties.

Police and Firefighters' Retirement and Relief Board (Board) properly found an officer was permanently disabled from duty, despite medical testimony that the officer could perform the job's physical tasks, because (1) the "full range of duties" standard in D.C. Code §§ 5-709(c) and 5-710(e-1) governed when a department sought an officer's involuntary retirement, instead of D.C. Code § 5-701(2), so the Board could consider future risk to the officer and the public, and (2) the Board's decision was narrowly based on risk of "catastrophic" injury directly tied to particular police work functions that would incapacitate the officer. Adgerson v. Police & Firefighters' Ret. & Relief Bd., 73 A.3d 985, 2013 D.C. App. LEXIS 498 (2013).

Review.

Review of the construction by Police and Firefighters' Retirement and Relief Board (PFRRB) of the Police and Firefighters' Retirement and Disability Act (PFRDA) is de novo, for the Court of Appeals is the final authority on issues of statutory construction and the ultimate interpreter of the statutory provisions from which the PFRRB, as a creature of the

legislature, derives its powers. O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd., 46 A.3d 378, 2012 D.C. App. LEXIS 304 (2012).

§ 5-704. Creditable service.

(a) A member's service for the purposes of this subchapter shall mean all police or fire service and such military and government service as is authorized by such sections prior to the date of separation upon which title to annuity is based.

(b)(1) Each member shall be allowed credit for periods of military service served prior to the date of the separation upon which the annuity is based; however, if a member is awarded retired pay on account of military service, such military service shall not be included, unless such retired pay is awarded on account of a service-connected disability:

(A) Incurred in combat with an enemy of the United States; or

(B) Caused by an instrumentality of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation No. 1(a), part I, paragraph I, or is awarded under §§ 101, 676, 1001, 1332 to 1337, 1401, 3966, 6017, 6034, 6323, and 8966 of Title 10, United States Code.

(2) Nothing in this subchapter shall affect the rights of members to retired pay, pension, or compensation in addition to the annuity herein provided. Notwithstanding any other provision to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with section 414(u) of the Internal Revenue Code.

(c) Credit shall be allowed for leaves of absence granted a member while performing military service, excluding from credit so much of any other leaves of absence without pay as may exceed 6 months in the aggregate in any calendar year.

(d) A member who, during any war or national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service shall not be considered, for the purposes of this subchapter, as separated from his position by reason of such military service, unless he shall apply for and receive his salary deductions: provided, that such member shall not be considered as retaining such position beyond December 31, 1957, or the expiration of 5 years of such military service, whichever is later.

(e)(1) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in paragraph (1) of § 5-701, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with paragraph (2) of this subsection, with the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712. All other members shall deposit such sums with the District of Columbia Retirement Board for credit to the revenues of the District

of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding 24, except that in the case of a member who is an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under § 5-712.

(2) Interest required on deposits under this subsection for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

(A) Interest shall be paid at a rate which (as determined by the District of Columbia Retirement Board) is equal to the average rate of return on investment (adjusted to the nearest one eighth of 1%) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by § 1-712) for the period beginning on the 1st day of the 1st month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the 1st monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one eighth of 1%) shall be used in determining the interest rate to be paid on deposits under this subsection;

(B) Interest shall be payable for the period beginning on the 1st day of the 1st month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made; and

(C) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.

(f)(1) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this subchapter if such member files an election in accordance with paragraph (2) of this subsection and makes payments as described in paragraph (3) of this subsection. The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this subchapter if the period of time when such member is on approved leave is considered to be police or fire service under this subsection.

(2) To be eligible to have any period of approved leave described in paragraph (1) of this subsection considered to be police or fire service for purposes of this subchapter, a member described in such paragraph must, not later than the end of the 60-day period commencing on the day such member enters on such approved leave or the effective date of this subsection, whichever occurs later, file an election with the [District of Columbia Retire-

ment Board] to have such period of approved leave considered to be police or fire service for purposes of this subchapter.

(3)(A) To have any period of approved leave described in paragraph (1) of this subsection occurring after the effective date of this subchapter considered to be police or fire service, a member described in such paragraph must each month deposit with the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712 a sum equal to one-twelfth the annual new entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

(B) To have any period of approved leave described in paragraph (1) of this subsection which occurred before the effective date of this subchapter considered to be police or fire service, a member described in such paragraph must deposit with the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712, in a manner to be determined by the District of Columbia Retirement Board, a sum equal to the new entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

(C) The District of Columbia Retirement Board shall make an annual determination of the new entrant normal cost for purposes of subparagraphs (A) and (B) of this paragraph according to information supplied by the actuary retained pursuant to § 1-722.

(4) For purposes of this subsection, the term "labor organization" means any labor organization recognized as an exclusive representative of members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia for purposes of collective bargaining pursuant to § 1-617.10.

(g) The total service of a member shall be the full years and 12th parts thereof, excluding from the aggregate any fractional part of a month.

(h)(1) Except as provided in paragraph (2) of this subsection, notwithstanding any other provision of this section, any military service (other than military service covered by military leave with pay from a civilian position) performed by an individual after December 1956 shall be excluded in determining the aggregate period of service upon which an annuity payable under this act to such individual or to the surviving spouse or child is to be based, if such individual or the surviving spouse or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old age or survivors benefits under § 202 of the Social Security Act based on such individual's wages and self-employment income. If in the case of the individual or the surviving spouse such military service is not excluded under the preceding sentence, but upon attaining retirement age (as defined in § 216(a) of the Social Security Act) he or she becomes entitled (or would upon proper application be entitled) to such benefits, the District of Columbia Retirement Board shall re-determine the aggregate period of service upon which such

annuity is based, effective as of the 1st day of the month in which he or she attains such age, so as to exclude such service. The Secretary of Health and Human Services shall, upon the request of the Mayor, inform the Mayor whether or not any such individual or the surviving spouse or child is entitled at any specified time to such benefits; and the Mayor shall forward this information to the District of Columbia Retirement Board.

(2)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, and subject to subparagraph (D) of this paragraph, each member or former member who has performed military service before the date of the separation on which the entitlement to any annuity under this act is based may elect to retain credit for the service by paying (in accordance with such regulations as the District of Columbia Retirement Board shall issue) to the office by which the member is employed (or, in the case of a former member, to the appropriate benefits administrator) an amount equal to 7 percent of the amount of the basic pay paid under section 204 of title 37, United States Code, to the member for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the member may provide, or, if the District of Columbia Retirement Board determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the District of Columbia Retirement Board under subparagraph (C) of this paragraph. Payment of such amount by an active member must be completed prior to the member's date of retirement or October 1, 2006, whichever is later, for the member to retain credit for the service.

(ii) In any case where military service interrupts creditable service under this section and reemployment pursuant to chapter 43 of title 38, United States Code [38 U.S.C. § 4301 et seq.], occurs on or after August 1, 1990, the deposit payable under this subparagraph may not exceed the amount that would have been deducted and withheld under this act from basic pay during the period of creditable service if the member had not performed the period of military service.

(B) Any deposit made under subparagraph (A) of this paragraph more than 2 years after the later of:

(i) October 1, 2004; or

(ii) The date on which the member making the deposit first becomes a member following the period of military service for which such deposit is due, shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this subsection shall be equal to the interest rate that is applicable for such year under subsection (e)(2).

(C) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the District of Columbia Retirement Board as the District of Columbia Retirement Board may determine to be necessary for the administration of this section; and the Mayor shall forward this information to the District of Columbia Retirement Board.

(D) Effective with respect to any period of military service after November 10, 1996, the percentage of basic pay under 37 U.S.C. § 204, payable under subparagraph (A) of this paragraph shall be equal to the same percentage as would be applicable under § 5-706 for that same period for service as a member subject to subparagraph (A)(2) of this paragraph.

(i)(1) Any member who is an officer or member of the District of Columbia Fire and Emergency Medical Services Department who was transferred pursuant to § 5-409.01, and who elects to, shall be covered by Chapter 9 of Title 1, and shall receive credit for prior years of service within the District of Columbia Fire and Emergency Medical Services Department as provided in subparagraphs (2), (3), and (4) of this subsection.

(2) Solely for the purposes of determining vesting and retirement eligibility, members shall receive credit for prior service with the District of Columbia Fire and Emergency Medical Services Department.

(3) Members shall be eligible to purchase benefit accrual service for some or all of the time they were employed by the District of Columbia Fire and Emergency Medical Services Department. The member shall deposit to the credit of the District of Columbia Police Officers and Fire Fighters' Retirement Fund an amount that is equal to the dollar increase in the present value of future benefits which results from crediting the prior service. The present value of future benefits shall be calculated on the actuarial assumptions and methods used to calculate the present value of future benefits pursuant to § 1-907.03(a)(3)(B) for the applicable fiscal year. Upon separation from District of Columbia employment for reasons other than retirement, any firefighter who purchased prior service credit shall receive that purchased amount along with any interest credited to the amount. Any firefighter who withdraws the purchased amount and is later reinstated shall not be entitled to this prior service credit until the purchased amount plus interest is again deposited.

(4) For the purposes of this section, the term "prior service" means any prior service in the District of Columbia Fire and Emergency Medical Services Department, regardless of whether there is a break in service.

(j) Service as a retired police officer hired pursuant to § 5-761, shall not count as creditable service for the purposes of this section.

(k)(1) An employee hired as a lateral law enforcement officer pursuant to § 1-610.72, shall be covered by Chapter 9 of Title 1. These lateral law enforcement officers shall be treated as new hires for retirement purposes and for the purposes of this section except as provided by law for federal government and military service and as provided by subparagraph (B) of this paragraph.

(2) In computing length of service of a retiring lateral law enforcement officer hired pursuant to § 1-610.72, credit shall be granted for prior law enforcement service outside the Metropolitan Police Department only if the lateral law enforcement officer has deposited to the credit of the Police Officers' and Firefighters' Retirement Fund an amount equal to the dollar increase in the present value of future benefits that results from crediting the prior service. The calculation of the present value of future benefits shall be based on the actuarial assumptions and methods used to calculate the present value of

future benefits pursuant to § 1-907.03(a)(3)(B) for the applicable fiscal year. Upon separation from District law enforcement duty for reasons other than retirement, any law enforcement officer who purchased prior service credit shall receive that purchase amount along with any interest credited on the amount. Any law enforcement officer that withdraws the purchase amount and is later reinstated shall not be entitled to this prior service credit until the purchase amount plus interest is again deposited.

(l) Service as a former Metropolitan Police Department detective hired as a detective advisor pursuant to § 5-129.31 [expired] shall not count as creditable service for the purposes of this section.

(Sept. 1, 1916, ch. 433, § 12(c); Aug. 21, 1957, 71 Stat. 392, Pub. L. 85-157, § 3; Aug. 29, 1972, 86 Stat. 641, Pub. L. 92-410, title II, § 201(a)(2); Oct. 1, 1976, D.C. Law 1-87, § 9, 23 DCR 2544; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122,§§ 202(a), 208(a)(2); Mar. 24, 1990, D.C. Law 8-97, § 5, 37 DCR 1046; Oct. 3, 2001, D.C. Law 14-28, § 203, 48 DCR 6981; Nov. 22, 2003, 117 Stat. 1386, Pub. L. 108-133, § 2; Mar. 13, 2004, D.C. Law 15-105, § 39, 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 13(a), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 27(a), 53 DCR 6794; Mar. 31, 2009, D.C. Law 17-356, § 3(b), 56 DCR 1614; May 1, 2013, D.C. Law 19-314, § 2(b), 60 DCR 3466.)

Section references. — This section is referenced in § 1-903.01, § 5-544.01, § 5-701, § 5-705, § 5-706, § 5-723.01, § 5-761, § 5-762, § 6-223, and § 10-505.05.

Effect of amendments.

The 2013 amendment by D.C. Law 19-314 added the last sentence in (b)(2).

Emergency legislation.

For temporary amendment of section, see § 2(a) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

For temporary (90 days) amendment of this section, see § 2(b) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-314. — See note to § 5-701.

§ 5-706. Deductions, deposits, and refunds; order of persons entitled to refunds for deductions.

(a) On and after the first day of the first pay period that begins on or after October 26, 1970, there shall be deducted and withheld from each member's basic salary an amount equal to 7% of such basic salary for all members hired before the first day of the first pay period that begins after October 29, 1996, and 8% of such basic salary for all members hired on or after the first day of the first pay period that begins after October 29, 1996. In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, these deductions and withholdings shall be paid to the District of Columbia Retirement Board and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712, and in the case of any other member, these deductions and withholdings shall be paid to the Collector of Taxes of the District of Columbia and shall be deposited in the Treasury to the credit of the District of Columbia. Amounts deducted and withheld from the basic salary of each

member of the District of Columbia Fire and Emergency Medical Services Department shall be:

(1) Picked up by the District of Columbia Fire and Emergency Medical Services Department, as described in section 414(h)(2) of the Internal Revenue Code of 1986;

(2) Deducted and withheld from the annual salary of the members as salary reduction contributions;

(3) Paid by the District of Columbia Fire and Emergency Medical Services Department to the Custodian of Retirement Funds (as defined in § 1-702(6)); and

(4) Made a part of the member's annuity benefit.

(b)(1) Any member who is an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, who is separated from his department, except for retirement as authorized by this subchapter, shall be refunded the amount of the deductions made from his salary under such sections. The receipt of payment of such deductions by such member shall void all annuity rights under such sections, unless and until such member shall be reappointed to any department whose members come under such sections. If such officer or member is subsequently reappointed to any department whose members come under such sections, he shall be required to redeposit the amount of deductions so refunded to him.

(2) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than 5 years of police or fire service who is separated from his department, except for retirement under § 5-709, § 5-710, or § 5-712, shall be refunded the amount of the deductions made from his salary under this subchapter. The receipt of payment of such deductions by such member shall void all annuity rights under this subchapter, except that if such member is subsequently reappointed to any department whose members come under this subchapter and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with § 5-717(c), then credit shall be allowed under this subchapter for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

(c) In order to facilitate the settlement of the accounts of each member coming under the provisions of this subchapter who dies prior to retirement leaving no survivor entitled to receive an annuity under the provisions of such sections, the District of Columbia Retirement Board shall pay all deductions for retirement made from the salary of such deceased member to the person or persons surviving at the time of death, in the following order of precedence, and such payment shall be a bar to recovery by any other person of amounts so paid:

(1) To the beneficiary or beneficiaries designated in writing by such

member, filed with the District of Columbia Retirement Board and received by him prior to the death of such member;

(2) If there be no such beneficiary, to the child or children of such deceased member and the descendants of deceased children by representation;

(3) If there be none of the above, to the parents of such member, or the survivor of them;

(4) If there be none of the above, to the duly appointed legal representative of the estate of the deceased member, or if there be none to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased member; provided, that if no natural person is determined to be entitled thereto such payment shall escheat to the government of the District of Columbia, except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto.

(d) In order to facilitate the settlement of the accounts of each former member coming under the provisions of this subchapter who dies leaving no survivor entitled to receive an annuity under the provisions of this subchapter and before the aggregate amount of the annuity paid to such former member equals the total amount deducted and withheld for retirement from his salary as a member, the District of Columbia Retirement Board shall pay the difference to the person or persons surviving at the time of death in the following order of precedence, and such payment shall be a bar to recovery by any other person of the amount so paid:

(1) To the beneficiary or beneficiaries designated in writing by such former member, filed with the District of Columbia Retirement Board and received by him prior to the death of such former member;

(2) If there be no such beneficiary, to the child or children of such deceased former member and the descendants of deceased children by representation;

(3) If there be none of the above, to the parents of such former member, or the survivor of them; and

(4) If there be none of the above, to the duly appointed legal representative of the estate of the deceased former member, or if there be none to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased former member: provided, that if no natural person is determined to be entitled thereto such payment shall escheat to the government of the District of Columbia, except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto.

(e) An individual withdrawing a distribution under this subchapter, which distribution constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986, may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code of 1986, in a direct rollover in accordance with section 401(a)(31) of the Internal Revenue Code of 1986.

(f) The District of Columbia Retirement Board shall be entrusted with any transfer from another retirement plan for the purchase of service credit, including transfers allowed by sections 403(b) and 457 of the Internal Revenue Code of 1986 [26 U.S.C. § 403; 26 U.S.C. § 457]. Before any transfer is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed transfers for the purchase of service credit.

(g)(1) The District of Columbia Retirement Board shall also be entrusted with a rollover contribution from an eligible retirement plan, including:

(A) A qualified plan described in sections 401(a) or 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

(B) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

(C) An eligible plan under section 457(b) of the Internal Revenue Code of 1986, which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state; or

(D) Amounts transferred from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code of 1986 that is eligible to be rolled over and would otherwise be includible in gross income.

(2) The rollover shall be separately accounted for as member contributions that were not previously taxed. Before any rollover is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed rollover contributions. The rollover shall be used to purchase service credit in addition to service credit provided under the provisions of § 5-704.

(h) The provisions of this subchapter shall constitute a defined benefit plan and a governmental plan as described in section 414(d) of the Internal Revenue Code of 1986, which is intended to qualify under section 401(a) of the Internal Revenue Code. Notwithstanding anything to the contrary contained in this subchapter, Chapter 7 of Title 1 (§ 1-701 et seq.), or Chapter 9 of Title 1 (§ 1-901 et seq.), the provisions of this subchapter shall apply to and control the provision of an annuity payable. The District of Columbia Retirement Board shall administer the plan in the manner required to satisfy the applicable qualification requirements for a qualified governmental plan pursuant to the Internal Revenue Code of 1986. If a conflict should arise with a qualification requirement, the provision shall be interpreted in favor of maintaining the federal qualification requirements.

(i) The District of Columbia Retirement Board may adopt rules to implement this section.

(j) Effective January 1, 2007, benefits payable under this subchapter shall not be paid until at least 30 days (or shorter period as may be permitted by law) but no more than 180 days after a member's receipt of all required distribution notices and election forms pursuant to section 402(f) of the Internal Revenue Code of 1986. The required notices must include a description of the member's

right (if any) to defer receipt of a distribution, the consequences of failing to defer receipt of the distribution, the relative value of optional forms of benefit, and other information as may be required by applicable regulations and guidance.

(k) Notwithstanding any provisions of this subchapter to the contrary, upon the employer's request, a contribution which was made by a mistake of fact shall be returned to the employer by the trustee within one year after the payment of the contribution. A portion of a contribution returned pursuant to this section shall be adjusted to reflect any earnings or gains. Notwithstanding any provisions of this subchapter to the contrary, the right or claim of a participant or beneficiary to an asset of the trust or a benefit under this subchapter shall be subject to and limited by the provisions of this subsection.

(l) For the purposes of this section, the term:

(1) "Direct rollover" means a payment to the eligible retirement plan specified by the distributee described in section 402(e)(6) of the Internal Revenue Code of 1986.

(2) "Distributee" means a member or former member. In addition, the member's or former member's surviving spouse is a distributee with regard to the interest of the spouse or former spouse. A non-spouse beneficiary of a deceased member is also a distributee for the purposes of this subchapter; provided, that in the case of a non-spouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under section 408 of the Internal Revenue Code of 1986 that is established on behalf of the non-spouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Internal Revenue Code of 1986. The determination of the extent to which a distribution to a non-spouse beneficiary is required under section 401(a)(9) of the Internal Revenue Code of 1986 shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

(3) "Eligible retirement plan" means:

(A) An individual retirement account described in section 408(a) of the Internal Revenue Code of 1986, including a Roth IRA described in section 408A of the Internal Revenue Code of 1986;

(B) An individual retirement annuity described in section 408(b) of the Internal Revenue Code of 1986, including a Roth IRA described in section 408A of the Internal Revenue Code of 1986;

(C) A qualified trust described in section 401(a) of the Internal Revenue Code of 1986 or an annuity plan described in section 403(a) of the Internal Revenue Code of 1986 that accepts the distributee's eligible rollover distribution;

(D) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986 that accepts the distributee's eligible rollover distribution; and

(E) An eligible plan described in section 457(b) of the Internal Revenue Code of 1986 that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state that accepts the distributee's eligible rollover distribution and agrees to account

separately for amounts transferred into such plan from the arrangement described under this subsection. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

(4) "Eligible rollover distribution," within the meaning of section 402(c) of the Internal Revenue Code of 1986, is a distribution of all or a portion of the balance to the credit of the distributee; provided, that an eligible rollover distribution does not include:

(A) A distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; and

(B) A distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code of 1986. A distribution to a nonspouse beneficiary under section 401(f)(2)(A) of the Internal Revenue Code of 1986 is an eligible rollover distribution. A portion of the distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, the portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code of 1986 or to a qualified trust or annuity plan described in section 401(a) or 403(a) of the Internal Revenue Code of 1986 or an annuity contract described in section 403(b) of the Internal Revenue Code of 1986 if the trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.

(Sept. 1, 1916, ch. 433, § 12(d); Aug. 21, 1957, 71 Stat. 393, Pub. L. 85-157, § 3; Aug. 20, 1958, 72 Stat. 686, Pub. L. 85-693, § 1; Oct. 26, 1970, 84 Stat. 1136, Pub. L. 91-509, § 1(13); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 122(b)(1), 208(a)(1); Apr. 9, 1997, D.C. Law 11-218, § 2(b), 43 DCR 6172; Oct. 1, 2002, D.C. Law 14-190, § 3722(a), 49 DCR 6968; Mar. 13, 2004, D.C. Law 15-105, § 40(a), 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 13(b), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 27(b), 53 DCR 6794; May 1, 2013, D.C. Law 19-314, § 2(c), 60 DCR 3466.)

Section references. — This section is referenced in § 1-712, § 1-903.01, § 5-704, § 5-717, and § 5-741.

Effect of amendments.

The 2013 amendment by D.C. Law 19-314 rewrote (a), (e), (g)(1), and (h); and added (j), (k), and (l).

Emergency legislation.

For temporary amendment of (1), (5), (7)(A), and (8), and addition of (10) and (11), see § 2(b) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

For temporary (90 days) amendment of this section, see § 2(c) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-314. — See note to § 5-701.

§ 5-708.01. Processing claims of injuries allegedly sustained within the performance of duty.

CASE NOTES

Burden of proof.

Because a 2004 amendment to the Police and Firefighters' Retirement and Disability Act, D.C. Code § 5-701 et seq., did not displace preexisting law providing claimants with the benefit of favorable burden-shifting principles, the Metropolitan Police Department committed legal error in failing to apply those principles to a police officer's claim. Newell-Brinkley v. Walton, 84 A.3d 53, 2014 D.C. App. LEXIS 4 (2014).

§ 5-709. Retirement for disability — Not incurred in performance of duty.

Section references. — This section is referenced in § 1-725, § 5-131.03, § 5-632, § 5-634, § 5-706, § 5-714, § 5-716, § 5-717, § 5-721, and § 5-723.01.

CASE NOTES

ANALYSIS

Construction.
Disability shown.
Termination of employment.

Construction.

Police and Firefighters' Retirement and Relief Board (Board) properly found an officer was permanently disabled from duty, despite medical testimony that the officer could perform the job's physical tasks, because (1) the "full range of duties" standard in D.C. Code §§ 5-709(c) and 5-710(e-1) governed when a department sought an officer's involuntary retirement, instead of D.C. Code § 5-701(2), so the Board could consider future risk to the officer and the public, and (2) the Board's decision was narrowly based on risk of "catastrophic" injury directly tied to particular police work functions that would incapacitate the officer. Adgerson v. Police & Firefighters' Ret. & Relief Bd., 73 A.3d 985, 2013 D.C. App. LEXIS 498 (2013).

Disability shown.

Substantial evidence supported a decision of the Police and Firefighters' Retirement and Relief Board that a police officer was permanently disabled from duty because the officer's treating physician's opinion that the officer could attempt a return to full duty was not unequivocal, and the physician did not have the expertise of a doctor recommending against a return, whose opinion was specific to the officer's surgery and injuries a full-duty officer faced. Adgerson v. Police & Firefighters' Ret. & Relief Bd., 73 A.3d 985, 2013 D.C. App. LEXIS 498 (2013).

Termination of employment.

Membership in the metropolitan police force at the time a recommendation or application for disability retirement reaches the Police and Firefighters' Retirement and Relief Board (PFRRB) is sufficient to satisfy the membership requirements of the disability annuity provisions of the Police and Firefighters' Retirement and Disability Act (PFRDA), regardless of whether the member is terminated before the PFRRB comes to its decision. O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd., 46 A.3d 378, 2012 D.C. App. LEXIS 304 (2012).

§ 5-710. Retirement for disability — Incurred or aggravated in performance of duty.

Section references. — This section is referenced in § 1-725, § 5-131.03, § 5-632, § 5-633, § 5-701, § 5-706, § 5-708, § 5-709, § 5-711, § 5-714, § 5-716, § 5-717, § 5-721, and § 5-723.01.

CASE NOTES

ANALYSIS

Construction.
Denial of disability.
Evidence.
Termination of employment.

Construction.

Police and Firefighters' Retirement and Relief Board (Board) properly found an officer was permanently disabled from duty, despite medical testimony that the officer could perform the job's physical tasks, because (1) the "full range of duties" standard in D.C. Code §§ 5-709(c) and 5-710(e-1) governed when a department sought an officer's involuntary retirement, instead of D.C. Code § 5-701(2), so the Board could consider future risk to the officer and the public, and (2) the Board's decision was narrowly based on risk of "catastrophic" injury directly tied to particular police work functions that would incapacitate the officer. Adgerson v. Police & Firefighters' Ret. & Relief Bd., 73 A.3d 985, 2013 D.C. App. LEXIS 498 (2013).

Denial of disability.

Basis of officer's termination from metropolitan police force, i.e., that he had falsely denied when applying for employment having been examined for any disease or physical impairment, when in fact he had been tested for a heart condition, would not render him ineligible for disability retirement for which he was recommended prior to his termination, absent any indication that the purportedly disabling injuries he sustained in chasing a carjacker were related in any way to the condition of his heart, or to anything else he allegedly hid from police department when he was hired. O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd., 46 A.3d 378, 2012 D.C. App. LEXIS 304 (2012).

Evidence.

Substantial evidence supported a decision of the Police and Firefighters' Retirement and Relief Board that a police officer was permanently disabled from duty because the officer's treating physician's opinion that the officer could attempt a return to full duty was not unequivocal, and the physician did not have the expertise of a doctor recommending against a return, whose opinion was specific to the officer's surgery and injuries a full-duty officer faced. Adgerson v. Police & Firefighters' Ret. & Relief Bd., 73 A.3d 985, 2013 D.C. App. LEXIS 498 (2013).

Termination of employment.

Membership in the metropolitan police force at the time a recommendation or application for disability retirement reaches the Police and Firefighters' Retirement and Relief Board (PFRRB) is sufficient to satisfy the membership requirements of the disability annuity provisions of the Police and Firefighters' Retirement and Disability Act (PFRDA), regardless of whether the member is terminated before the PFRRB comes to its decision. O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd., 46 A.3d 378, 2012 D.C. App. LEXIS 304 (2012).

§ 5-712. Optional retirement.

(a) Any member who first becomes employed on or after the first day of the first pay period that begins after October 29, 1996, and who completes 25 years of service, and gives at least 60 days written advanced notice to his department stating his intention to retire and stating the date of which he will retire, may voluntarily retire from the service and shall be entitled to an annuity computed at a rate of 2.5% of the member's average pay times the number of years of the member's creditable service; provided that such notice requirement may be waived by the department head when, in his opinion, circumstances justify such waiver; provided further, that whenever the Mayor shall determine that there exists an emergency which is likely to endanger the safety of the public and that the public safety cannot be adequately protected except by suspending the retirement provisions of this subsection, then the Mayor shall be authorized, upon notice to the District of Columbia Retirement Board, to suspend the retirement provisions of this subsection in any 1 or more of the departments under his jurisdiction until such time as, in the opinion of the Mayor, public safety can be adequately protected without such suspension. Any member who is an officer or member of the Metropolitan Police force or the

Fire Department of the District of Columbia and first becomes such a member after the end of the 90-day period beginning on November 17, 1979, and who completes 25 years of police or fire service and attains the age of 50 years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such 90-day period) who completes 20 years of police or fire service may, after giving at least 60 days written advance notice to his department head stating his intention to retire and stating the date on which he will retire, voluntarily retire from the service and shall be entitled to an annuity computed at the rate of 2½ % of his average pay for each year of service; except that the rate of 3% of his average pay shall be used to compute each year's police or fire service in excess of:

(1) Twenty-five years, in the case of a member who becomes a member after the end of such 90-day period; or

(2) Twenty years, in the case of any other member; provided that such notice requirement may be waived by the department head when, in his opinion, circumstances justify such waiver; provided further, that whenever the Mayor or the Chief of the United States Secret Service Uniformed Division, or the Chief of the United States Park Police force, or the Chief of the United States Secret Service Division shall determine that there exists an emergency which is likely to endanger the safety of the public and that the public safety cannot be adequately protected except by suspending the retirement provisions of this subsection, then the Mayor or any of said Chiefs shall be authorized to suspend the retirement provisions of this subsection in any 1 or more of the departments under their respective jurisdictions until such time as, in the opinion of the Mayor or any of said Chiefs, respectively, public safety can be adequately protected without such suspension.

(a-1) For the purposes of the first sentence of subsection (a) of this section, the term "creditable service" means the period of employment with the Metropolitan Police Department for police officers and the Fire Department of the District of Columbia for fire fighters first employed on or after the first day of the first pay period which begins after October 29, 1996, and includes any United States military service including the following:

(1) Credit for periods of military service prior to the member's date of separation, that interrupts the member's service with the Department, unless the member applies for and receives a refund of the member's salary deductions; and

(2) Credit for any period of time during which a member is on approved leave without pay to serve as a full-time officer or employee of a labor organization.

(a-2) Notwithstanding any other law, rule, or regulation, sworn members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department hired before or on September 11, 2008, may make a one-time election, at their option, in writing, to participate in one of the retirement programs created by subsection (a) of this section; provided, that any and all additional costs above the costs which would otherwise be incurred by the District for that sworn member pursuant to subsection (a) of this section

shall be paid by the member, as determined by actuaries appointed by the District of Columbia. The District shall not be responsible for any additional administrative or program costs associated with a retirement program transfer authorized by this subsection. All costs associated with the transfer to a new retirement program under this subsection shall be borne by the member.

(a-3) Notwithstanding any other law, rule, or regulation, sworn members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department hired after September 11, 2008, shall make a one-time election, at their option, in writing, to participate in one of the retirement programs created by subsection (a) of this section; provided, that any and all additional costs above the costs which would otherwise be incurred by the District for that sworn member pursuant to subsection (a) of this section shall be paid by the member, as determined by actuaries appointed by the District of Columbia. The District shall not be responsible for any additional administrative or program costs associated with a retirement program selection authorized by this subsection. All costs associated with the selection of a retirement program under this subsection shall be borne by the member.

(b) Any member of the Metropolitan Police force or of the Fire Department of the District of Columbia having reached the age of 60 years shall, in the discretion of the Mayor, and any member of the United States Secret Service Uniformed Division or of the United States Park Police force or of the United States Secret Service Division to whom this subchapter apply shall, in the discretion of the head of his department, be retired from the service and shall be entitled to receive an annuity as computed under subsection (a) of this section.

(c) No annuity granted under subsection (a) or (b) of this section shall exceed 80% of the average pay of such member.

(d) In computing an annuity under this section, the police or fire service of a member who has not retired prior to the effective date of this subsection shall include, without regard to the limitation imposed by subsection (c) of this section, the days of unused sick leave credited to him. Days of unused sick leave shall not be counted in determining a member's eligibility for an annuity under this section.

(e) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes 18 years of police or fire service may voluntarily retire from the service on or before December 31, 1980, and shall be entitled to an annuity computed at the rate of 2½% of the average pay of such member or officer for each year of service; provided, that the amortization payment to the District of Columbia Retirement Board for the District of Columbia Police Officers and Fire Fighters' Retirement Fund shall be made from appropriations of the Metropolitan Police and Fire Departments.

(f) Notwithstanding the first sentence of subsection (a) of this section, Charles H. Ramsey, Chief of Police, may voluntarily retire from the service and, effective April 21, 1998, the date of his appointment as Chief of Police, shall be entitled to an annuity computed at a rate of 3.43% of his average pay times the number of years of his creditable service.

(g) Notwithstanding the first sentence of subsection (a) of this section, at the time that Chief of Police Cathy L. Lanier voluntarily retires or is otherwise separated from the Metropolitan Police Department, she shall be entitled to an annuity computed at 71.5% of her average highest base pay for 36 consecutive months, including longevity payments.

(h) A member who meets the requirements for receiving an annuity under this subchapter, but for the fact that the member has not yet retired, shall be 100% vested in the member's annuity.

(i) Each year, the District of Columbia Retirement Board shall set the applicable interest rate, mortality table, and cost-of-living factor to be used in the determination of actuarial equivalents or for other pertinent benefit calculations under the provisions of this subchapter.

(Sept. 1, 1916, ch. 433, § 12(h); Aug. 21, 1957, 71 Stat. 395, Pub. L. 85-157, § 3; Oct. 26, 1970, 84 Stat. 1137, Pub. L. 91-509, § 1(5), (6); Aug. 29, 1972, 86 Stat. 641, Pub. L. 92-410, title II, § 201(a)(3); Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(b)(1)-(3); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 203; Mar. 4, 1981, D.C. Law 3-128, § 8, 28 DCR 246; Mar. 5, 1981, D.C. Law 3-133, § 4, 27 DCR 4417; Apr. 9, 1997, D.C. Law 11-218, § 2(c), 43 DCR 6172; Apr. 13, 2005, D.C. Law 15-354, § 13(c), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 27(d), 53 DCR 6794; Mar. 2, 2007, D.C. Law 16-199, § 4, 53 DCR 8832; May 13, 2008, D.C. Law 17-154, § 7, 55 DCR 3678; Sept. 11, 2008, D.C. Law 17-224, § 2, 55; May 1, 2013, D.C. Law 19-314, § 2(d), 60 DCR 3466.)

Section references. — This section is referenced in § 5-105.05, § 5-704, § 5-706, § 5-716, and § 5-717.

Effect of amendments.

The 2013 amendment by D.C. Law 19-314 added (h) and (i).

Emergency legislation.

For temporary addition of (8) and (9), see § 2(c) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

For temporary (90 days) amendment of this section, see § 2(d) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-314. — See note to § 5-701.

§ 5-716. Survivor benefits and annuities.

(a) If any member:

(1) dies in the performance of duty and the Mayor determines that:

(A) the member's death was the sole and direct result of a personal injury sustained while performing such duty;

(B) his death was not caused by his willful misconduct or by his intention to bring about his own death; and

(C) intoxication of the member was not the proximate cause of his death; and

(2) is survived by a survivor, parent, or sibling,

a lump-sum payment of $50,000 shall be made to his survivor if the survivor received more than one half of his support from such member, or if such member is not survived by any survivor (including a survivor who did not receive more than one half of his support from such member), to his parent or

sibling if the parent or sibling received more than one half of his support from such member. If such member is survived by more than 1 survivor entitled to receive such payment, each such survivor shall be entitled to receive an equal share of such payment; or if such member leaves no survivor and more than 1 parent or sibling who is entitled to receive such payment, each such parent or sibling shall be entitled to receive an equal share of such payment.

(a-1) In the case of any member who dies in the performance of duty after December 29, 1993, and leaves a widow or widower entitled to all or a portion of the benefit described in subsection (a) of this section, an additional annuity shall be paid. This annuity shall be equal to 100% of the member's pay at the time of death. The annuity shall be increased at the same rate as the change in the Consumer Price Index, as described in § 5-721. This benefit shall be paid in lieu of benefits provided for by subsections (b) and (c) of this section. However, after benefits provided for in this paragraph end, as provided in subsection (e) of this section, any remaining benefit pursuant to subsection (c) of this section shall commence to be paid.

(a-2) The determination of the Mayor authorized by subsection (a) of this section shall be subject to review and final determination by the District of Columbia Retirement Board.

(b) In case of the death of any member before retirement, of any former member after retirement, or of any member entitled to receive an annuity under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), leaving a widow or widower, such widow or widower shall be entitled to receive an annuity in the greater amount of:

(1) Forty per centum of such member's average pay at the time of death, or 40%:

(A) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division; or

(B) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia; or

(2) Forty per centum of the corresponding salary for step 6 of salary class 1 of the District of Columbia Police and Firemen's Salary Act salary schedule currently in effect at the time of such member or former member's death, or, for a member who was an officer or member of the United States Secret Service Uniformed Division, or the United States Secret Service Division, 40 percent of the corresponding salary for step 5 of the Officer rank in section 10203 of title 5, United States Code; provided, that such annuity shall not exceed the current rate of compensation of the position occupied by such member at the time of death, or by such former member immediately prior to retirement.

(c) Each surviving child or student child of any member who dies before retirement, of any former member who dies after retirement, or of any member entitled to receive an annuity under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), shall be entitled to receive an annuity equal to the smallest of:

(1) In the case of a member or former member who is survived by a wife or husband:

(A) Sixty per centum of:

(i) The member's average pay at the time of death; or

(ii) The adjusted average pay of the former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, divided by the number of eligible children;

(B) $2,918.00, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718; or

(C) $8,754.00, divided by the number of eligible children, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718, divided by the number of eligible children; and

(2) In the case of a member or former member who is not survived by a wife or husband:

(A) 75% of the member's average pay at the time of death, divided by the number of eligible children;

(B) In the case of a member who was an officer or member of the United States Park Police Force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, 75% of the adjusted average pay of the former member, divided by the number of eligible children; or

(C) In the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, 75% of the adjusted average pay of the former member, divided by the number of eligible children.

(d) Each widow or widower who, on the effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1970, was receiving relief or annuity computed in accordance with the provisions of this section shall be entitled to receive an annuity in the greater amount of: (1) $3,144; or (2) thirty-five per centum of the basis upon which such relief or annuity was computed. Each child who, on October 3, 2001, was receiving relief or annuity computed in accordance with the provisions of this section, shall be entitled to benefits computed in accordance with the provisions of subsection (c) of this section.

(e)(1) The annuity of the widow or widower under this section shall begin on the day after the date on which the member or former member dies, and such annuity or any right thereto shall terminate upon the survivor's death or remarriage before age 55; provided, that any annuity terminated by remarriage may be restored if such remarriage is later terminated by death, annulment, or divorce.

(2) The annuity of any child under this section shall begin on the day after the date on which the member or former member dies, and the annuity shall terminate upon whichever of the following occurs first:

(A) The child becomes 18 years of age or, if over 18 years of age and incapable of self-support, becomes capable of self-support;

(B) The child marries; or

(C) The child dies.

(3)(A) The annuity of any student child under this section shall begin on the day after the date on which the member or former member dies, and the annuity shall terminate upon whichever of the following occurs first:

(i) The student child marries;

(ii) The student child ceases to be a student;

(iii) The student child reaches 22 years of age; or

(iv) The student child dies.

(B) For the purposes of this subsection, a student child whose 22nd birthday falls on or after July 1st shall not be considered to have reached 22 years of age until the June 30th following the student child's actual 22nd birthday.

(4) If the annuity of a child under paragraph (2) or paragraph (3) of this subsection terminates because of marriage and such marriage ends, the annuity shall resume on the first day of the month in which it ends, but only if the individual is not otherwise ineligible for the annuity.

(5) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, no annuity of a child or student of a widow or widower under subsection (a-1) of this section shall be paid while an annuity benefit to a widow or widower under subsection (a-1) of this section is being paid.

(f) Any member retiring under § 5-709, § 5-710, or § 5-712, may at the time of such retirement, and any member entitled to receive an annuity under § 5-717 may at the time such annuity commences, elect to receive a reduced annuity in lieu of full annuity, and designate in writing the person to receive an increased annuity after such member's death; provided, that the person so designated be the surviving spouse or child of such member. Whenever such an election is made, the annuity of the designee shall be increased by an amount equal to the amount by which the annuity of such member is reduced. The annuity payable to the member making such election shall be reduced by 10% of the annuity computed as provided in § 5-709, § 5-710, or § 5-712. Such increase in annuity payable to the designee shall be reduced by 5% for each full 5 years the designee is younger than the member, but such total reduction shall not exceed 40%. The increase in annuity payable to the designee pursuant to this subsection shall be paid in addition to the annuity provided for such designee pursuant to subsection (b) or subsection (c) of this section and shall be subject to the same limitations as to duration and other conditions as the annuity paid pursuant to subsections (b), (c), and (e) of this section. If, at any time after such former member's election, the designee dies, and is survived by such former member, the annuity payable to such former member shall be increased to the amount computed as provided in § 5-709, § 5-710, § 5-712, or § 5-717, as the case may be.

(g) In the event a member to whom this section applies shall die after January 1, 2007, while performing qualified military service, the survivor or survivors of the member shall be entitled to receive any additional benefits provided under this section (other than benefit accruals relating to the period of qualified military service), as if the member resumed employment and then

terminated employment on account of death. For the purposes of this subsection, the term "qualified military service" shall mean military service in the uniformed services (as defined in 38 U.S.C. § 43) by a member, if the member is entitled to reemployment rights with respect to such military service, all within the meaning of section 414(u)(5) of the Internal Revenue Code of 1986.

(Sept. 1, 1916, ch. 433, § 12(k); Aug. 21, 1957, 71 Stat. 396, Pub. L. 85-157, § 3; Oct. 26, 1970, 84 Stat. 1137, Pub. L. 91-509, § 1(8); Aug. 29, 1972, 86 Stat. 642, Pub. L. 92-410, title II, § 201(a)(4); Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(b)(4), (5); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122,§§ 206(a)(1), 207(a)(2), 209(b); June 22, 1990, D.C. Law 8-145, § 2, 37 DCR 2977; Nov. 19, 1995, 109 Stat. 505, Pub. L. 104-52, § 630(b); Nov. 19, 1997, 111 Stat. 2184, Pub. L. 105-100, § 152(b)(1); Oct. 19, 2000, D.C. Law 13-172, § 1102, 47 DCR 6308; Oct. 3, 2001, D.C. Law 14-28, § 2102, 48 DCR 6981; Apr. 13, 2005, D.C. Law 15-354, § 13(e), 52 DCR 2638; Mar. 21, 2009, D.C. Law 17-321, § 2(a), 56 DCR 222; Oct. 15, 2010, 124 Stat. 3033, Pub. L. 111-282, § 4(b)(5); Sept. 26, 2012, D.C. Law 19-171, § 40, 59 DCR 6190; May 1, 2013, D.C. Law 19-301, § 2, 60 DCR 2310; May 1, 2013, D.C. Law 19-314, § 2(e), 60 DCR 3466.)

Section references. — This section is referenced in § 5-544.01, § 5-702, § 5-714, § 5-718, § 5-719, § 5-721, § 5-723.01, § 5-744, and § 5-747.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (e)(1) and (e)(2).

The 2013 amendment by D.C. Law 19-301 substituted "age 55" for "age 60" in (e)(1).

The 2013 amendment by D.C. Law 19-314 added (g).

Emergency legislation.

For temporary addition of (7), see § 2(d) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

For temporary (90 days) amendment of this section, see § 2(e) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Legislative history of Law 19-301. — Law 19-301, the "Equity in Survivor Benefits Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-570. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-650 and transmitted to Congress for its review. D.C. Law 19-301 became effective on May 1, 2013.

Legislative history of Law 19-314. — See note to § 5-701.

§ 5-723. Accruement and payment of annuities; persons who may accept payment; waiver; reduction.

Section references. — This section is referenced in § 1-611.03 and § 1-711.

CASE NOTES

ANALYSIS

Reduction of annuity amount.
Remand.
Salary basis.

Reduction of annuity amount.

Offset scheme outlined in § 5-723(e) did not constitute a tax on plaintiffs' pension benefits earned for work done during the course of their prior employment with the police department; at most, the offset represented a tax on plaintiffs' current salaries for work done with the Department of General Services. Cannon v. Dist. of Columbia, — F. Supp. 2d —, 2014 U.S. Dist. LEXIS 726 (D.D.C. Jan. 6, 2014).

Remand.

Remand to District of Columbia Superior Court of remaining nonfederal claims in removed action where all federal claims were dismissed was appropriate, as those claims raised novel and complex issues of District law. Cannon v. District of Columbia, 2012 WL 2673097 (2012).

Salary basis.

Relevant "salary basis" for determining whether retired police officers first employed by District of Columbia before 1987 and rehired by District after 2004 were exempt executive or administrative employees under FLSA was amount of District paychecks they would receive before offset for pension payments was applied, not amount they received after their paychecks had been reduced to account for those payments. Cannon v. District of Columbia, 2012 WL 2673097 (2012).

§ 5-723.01. Maximum amount of benefits and contributions.

(a) Benefits and contributions under the provisions of this subchapter shall not be computed with reference to any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living.

(b) Notwithstanding foregoing provisions of this subchapter to the contrary, benefits under this subchapter are subject to the limitations imposed by section 415 of the Internal Revenue Code, as adjusted from time to time and, to that end, effective for limitation years beginning on or after January 1, 2008:

(1)(A) To the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this subsection, the maximum monthly benefit to which any member may be entitled in any limitation year with respect to his or her accrued retirement benefit, as adjusted from time to time pursuant to § 5-718 (the "maximum benefit"), shall not exceed the defined benefit dollar limit (adjusted as provided in this subsection). In addition to the foregoing, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this subsection, the maximum annual additions for any limitation year shall be equal to the lesser of:

(i) The dollar limit on annual additions; or

(ii) 100% of the member's remuneration.

(B) The defined benefit dollar limit and the dollar limit on annual additions shall be adjusted, effective January 1 of each year, under section 415(d) of the Internal Revenue Code in a manner prescribed by the Secretary of the Treasury. The dollar limit as adjusted under section 415(d) of the Internal Revenue Code shall apply to limitation years ending with or within the calendar year for which the adjustment applies, but a member's benefits shall not reflect the adjusted limit before January 1 of that calendar year. To the extent that the monthly benefit payable to a member who has reached the

member's termination date is limited by the application of this subsection, the limit shall be adjusted to reflect subsequent adjustments made in accordance with section 415(d) of the Internal Revenue Code of 1986, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

(2) Benefits shall be actuarially adjusted based upon the defined benefit dollar limit, as follows:

(A) There shall be an adjustment for benefits payable in a form other than a straight life annuity as follows:

(i) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted in the manner described in sub-subparagraphs (ii) or (iii) of this subparagraph, to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for:

(I) Benefits that are not directly related to retirement benefits, such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits; or

(II) In the case of a form of benefit not subject to section 417(e)(3) of the Internal Revenue Code of 1986, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost-of-living adjustments and the increase, if any, in the defined benefit dollar limit under section 415(d) of the Internal Revenue Code of 1986.

(ii) If the benefit of a member is paid in a form not subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity, without regard to cost-of-living adjustments described in this subsection, is equal to the greater of:

(I) The annual amount of the straight life annuity, if any, payable to the member commencing at the same time; or

(II) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the member's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code of 1986.

(iii) If the benefit of a member is paid in a form subject to section 417(e) of the Internal Revenue Code of 1986, the actuarially equivalent straight life annuity is equal to the greatest of:

(I) The annual amount of the straight life annuity having a commencement date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and mortality table or other tabular factor specified in the definition of actuarial equivalent for adjusting benefits in the same form;

(II) The annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the member's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code of 1986; or

(III) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the member's form

of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code of 1986, divided by 1.05.

(iv) For the purposes of this subparagraph, whether a form of benefit is subject to section 417(e) of the Internal Revenue Code is determined without regard to the status of this subchapter as a governmental plan as described in section 414(d) of the Internal Revenue Code of 1986.

(B) There shall be an adjustment to benefits that commence before age 62 or after age 65 as follows:

(i) If the benefit of a member begins before age 62, the defined benefit dollar limit applicable to the member at the earlier age shall be an annual benefit payable in the form a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limit applicable to the member at age 62 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code of 1986. However, if the benefit provided under this subchapter provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

(I) The limitation determined under the immediately preceding sentence; or

(II) The defined benefit dollar limit (adjusted for participation of fewer than 10 years, if applicable) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under this subchapter at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under this subchapter at age 62, both determined without applying the limitations of this section. The adjustment in this sub-subparagraph shall not apply as a result of benefits paid on account of disability under § 5-709 or § 5-710 or as a result of the death of a member under § 5-716. Notwithstanding the provisions above, a member that qualifies under section 415(b)(2(G) of the Internal Revenue Code of 1986 is not subject to the adjustment to benefits that commence before age 62.

(ii) If the benefit of a member begins after age 65, the defined benefit dollar limit applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this subchapter provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

(I) The limitation determined under the immediately preceding sentence; or

(II) The defined benefit dollar limit (adjusted for participation of less than 10 years, if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under this subchapter at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under this subchapter at age 65, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under this subchapter at the age the benefit commences is the annual amount of the annuity payable to the member, computed disregarding the member's accruals after age 65 but including any actuarial adjustments, even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under this subchapter at age 65 is the annual amount of such annuity that would be payable under this subchapter to a hypothetical member who is age 65 and has the same annuity as the member.

(iii) For the purposes of this subparagraph, no adjustment shall be made to the defined benefit dollar limit to reflect the probability of a member's death between the commencing date and age 62, or between age 65 and the commencing date, as applicable, if benefits are not forfeited upon the death of the member before the annuity having a commencing date. To the extent that benefits are forfeited upon death before the date the benefits first commence, an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the benefit provided under this subchapter does not charge the member for providing a qualified preretirement survivor annuity, as defined for purposes of section 415 of the Internal Revenue Code of 1986, upon the member's death.

(3) If the member has fewer than 10 years of participation in the defined benefit portion of this subchapter, as determined under section 415 of the Internal Revenue Code of 1986 and the regulations thereunder, the defined benefit dollar limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation under this subchapter and the denominator of which is 10. The adjustment in this paragraph shall not apply to benefits paid on account of disability under § 5-709 or § 5-710 or as a result of the death of a member under § 5-716. In the case of years of credited service credited to a member pursuant to § 5-704:

(A) The limitations contained in paragraph (1)(A)(i) of this subsection and this paragraph shall not apply to the portion of the member's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under § 5-704 that are actuarially funded by:

(i) A transfer or rollover from the member's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code of 1986 or an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code of 1986 or from an individual retirement account; or

(ii) A direct payment.

(B) The limitations contained in paragraph (1)(A)(i) of this subsection and this paragraph shall apply to the portion of the member's accrued

retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under § 5-704 that are not actuarially funded by:

(i) A transfer or rollover from the member's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code of 1986 or an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code of 1986 or from an individual retirement account; or

(ii) A direct payment.

(C) The determination of the extent to which additional years of credited service under § 5-704 have been actuarially funded as of the annuity commencement date shall be determined in accordance with section 411(c) of the Internal Revenue Code of 1986 (using the actuarial assumptions thereunder), applied as if section 411(c) of the Internal Revenue Code of 1986 applied and treating the amount transferred from a plan qualified under section 401(a) of the Internal Revenue Code of 1986, the member's account under an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code of 1986, or an individual retirement account, or the amount of the direct lump-sum payment to the Custodian of Retirement Funds, as if it were a mandatory employee contribution.

(4) In addition to the foregoing, the maximum benefit and contributions shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code of 1986, with respect to a member who is also a participant in:

(A) Another tax-qualified retirement plan maintained by the District, including a defined benefit plan in which an individual medical benefit account as described in section 415(l) of the Internal Revenue Code of 1986 has been established for the member;

(B) A welfare plan maintained by the District in which a separate account, as described in section 419A(d) of the Internal Revenue Code of 1986, has been established to provide post-retirement medical benefits for the member; or

(C) A retirement or welfare plan, as previously mentioned, maintained by an affiliated or predecessor employer, as described in regulations under section 415 of the Internal Revenue Code of 1986, or otherwise required to be taken into account under these regulations.

(5) If a member has distributions commencing at more than one date, determined in accordance with section 415 of the Internal Revenue Code of 1986 and associated regulations, the annuity payable having this commencement date shall satisfy the limitations of this subsection as of each date, actuarially adjusting for past and future distributions of benefits commencing at the other dates that benefits commence.

(6) The application of the provisions of this subsection shall not cause the maximum permissible benefit for a member to be less than the member's annuity under this subchapter as of the end of the last limitation year beginning before July 1, 2007 under provisions of this subchapter that were

both adopted and in effect before April 5, 2007 and that satisfied the limitations under section 415 of the Internal Revenue Code of 1986 as in effect as of the end of the last limitation year beginning before July 1, 2007.

(7) To the extent that a member's benefit is subject to provisions of section 415 of the Internal Revenue Code that have not been set forth in this subchapter, the provisions are hereby incorporated by reference and for all purposes shall be deemed a part of this subchapter.

(c) Notwithstanding any other provision to the contrary, all death benefit payments referred to in this section shall be distributed only in accordance with section 401(a)(9) of the Internal Revenue Code of 1986 and accompanying Treasury regulations, as more fully set forth in § 5-723.03.

(d) For the purposes of this section, the term:

(1) "Annual additions" means the sum of the following items credited to the member under this subchapter and any other tax-qualified retirement plan sponsored by the District for a limitation year and treated as a defined contribution plan for purposes of section 415 of the Internal Revenue Code of 1986: District contributions that are separately allocated to the member's credit in an defined contribution plan; forfeitures; member contributions; and amounts credited after March 31, 1984 to a member's individual medical account within the meaning of section 415(l) of the Internal Revenue Code of 1986.

(2) "Defined benefit dollar limit" means the dollar limit imposed by section 415(b)(1)(A) of the Internal Revenue Code of 1986, as adjusted pursuant to section 415(d) of the Internal Revenue Code of 1986. The defined benefit dollar limit as set forth above is the monthly amount payable in the form of a straight life annuity, beginning no earlier than age 62, except as provided in subsection (b)(2)(B)(i) of this section, and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in subsection (b)(2) of this section shall apply.

(3) "Dollar limit" means the dollar limit on annual additions imposed by section 415(c)(1)(A) of the Internal Revenue Code of 1986, as adjusted pursuant to section 415(d) of the Internal Revenue Code of 1986.

(D) "Remuneration" means a member's wages as defined in section 3401(a) of the Internal Revenue Code of 1986 and other payments of salary to the member from the District, for which the District is required to furnish the member a written statement under sections 6041(d) and 6051(a)(3) of the Internal Revenue Code of 1986. For this purpose:

(A) Remuneration shall be determined without regard to rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

(B) Remuneration shall include an amount that would otherwise be deemed remuneration under this definition but for the fact that it is subject to a salary reduction agreement under a plan described in sections 457(b), 132(f) or 125 of the Internal Revenue Code of 1986.

(C) Remuneration with respect to any limitation year shall in no event exceed the dollar limit specified in section 401(a)(17) of the Internal Revenue

Code of 1986, as adjusted from time to time by the Secretary of the Treasury. The cost-of-living adjustment in effect for a calendar year applies to remuneration for the limitation year that begins with or within such calendar year.

(Sept. 16, 1916, 39 Stat. 718, ch. 433, § 12(n-1), as added Oct. 1, 2002, D.C. Law 14-190,§ 3722(a), 49 DCR 6968; Mar. 13, 2004, D.C. Law 15-105, § 40(b), 51 DCR 881; May 1, 2013, D.C. Law 19-314, § 2(f), 60 DCR 3466.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-314 rewrote the section.

Emergency legislation. — For temporary addition of section, see § 2(e) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

For temporary (90 days) amendment of this section, see § 2(f) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-314. — See note to § 5-701.

§ 5-723.02. Longevity compensation.

Emergency legislation. — For temporary addition of the Act of Sept. 1, 1916, 39 Stat. 718, ch. 433, §§ 12(n-3), 12(n-4), and 12(n-5), concerning required minimum distributions, disposition of forfeitures, and funds not assignable or subject to execution, see § 2(f) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

§ 5-723.03. Required minimum distributions.

(a) Distributions shall begin no later than the member's required beginning date, as defined in section 401(a)(9) of the Internal Revenue Code of 1986, and shall be made in accordance with all other requirements of section 401(a)(9) of the Internal Revenue Code of 1986. The provisions of this section shall apply for the purposes of determining minimum required distributions under section 401(a)(9) of the Internal Revenue Code of 1986 and take precedence over any inconsistent provisions of this subchapter; provided, that these provisions are intended solely to reflect the requirements of section 401(a)(9) of the Internal Revenue Code of 1986 and accompanying Treasury regulations and are not intended to provide or expand, and shall not be construed as providing or expanding, a benefit or distribution option not otherwise expressly provided for under the terms of this subchapter. The provisions of this section shall apply only to the extent required under section 401(a)(9) of the Internal Revenue Code of 1986 as applied to a governmental plan, and if special rules for governmental plans are not set forth herein, the special rules are incorporated by reference and shall for all purposes be deemed a part of this subchapter.

(b)(1) The member's entire interest shall be distributed or begin being distributed to the member no later than April 1 following the later of:

(A) The calendar year in which the member attains age 70 ½; or

(B) The calendar year in which the member retires or terminates employment (the "required beginning date").

(2) If the member dies before distributions begin, the member's entire interest shall be distributed, or will begin to be distributed, no later than as follows:

(A) If the member's surviving spouse is the sole designated beneficiary,

distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70 ½, if later;

(B) If the member's surviving spouse is not the sole designated beneficiary, distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the member died;

(C) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest shall be distributed by December 31 of the calendar year of the 5th anniversary of the member's death;

(D) If the member's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, subparagraph (A) of this paragraph shall not apply, and subparagraphs (B) and (C) of this paragraph shall apply as if the surviving spouse were the member. For the purposes of this paragraph and subsection (d) of this section, distributions are considered to begin on the member's required beginning date or, if this subparagraph applies, the date distributions to the surviving spouse are required to begin under subparagraph (A) of this paragraph. If annuity payments to the member irrevocably commence before the member's required beginning date or to the member's surviving spouse before the date distributions to the surviving spouse are required to begin under subparagraph (A) of this paragraph, the date distributions are considered to begin is the date distributions actually commence.

(3) Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution, calendar year distributions will be made in accordance with subsections (c) and (d) of this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions of the annuity will be made in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code of 1986 and applicable Treasury regulations. Any part of the member's interest that is in the form of an individual account described in section 414(k) of the Internal Revenue Code of 1986 shall be distributed in a manner satisfying the requirements of section 401(a)(9) of the Internal Revenue Code of 1986 and the Treasury regulations that apply to individual accounts.

(c)(1) The amount of the annuity is to be determined each year.

(2) If the member's interest is paid in the form of annuity distributions, payments under the annuity shall satisfy the following requirements:

(A) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

(B) Payments will either be non-increasing or increase only as follows:

(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items (the CPI-W) and issued by the Bureau of Labor Statistics;

(ii) To provide cash refunds of employee contributions upon the teacher's death;

(iii) To pay increased benefits that result from an amendment to this subchapter.

(3) The amount that must be distributed on or before the member's required beginning date or, if the member dies before distributions begin, the date distributions are required to begin under subsection (b)(2)(A) or (B) of this section, is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (for example, bi-monthly, monthly, semi-annually, or annually). All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(4) Additional benefits accruing to the member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(d) Amounts payable if a member dies before distribution begins are subject to the following requirements:

(1) If the member dies before the date of distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest shall be distributed, beginning no later than the time described in subsection (b)(2)(A) or (B) of this section, over the life of the designated beneficiary not exceeding either of the following:

(A) Unless the benefit commenced is before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the teacher's death; or

(B) If the benefit commenced before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of his or her birthday in the calendar year that begins before benefits commence; or

(2) If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest shall be completed by December 31 of the calendar year of the fifth anniversary of the member's death; or

(3) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection shall apply as if the surviving spouse were the member, except that the time by which distributions must begin shall be determined without regard to subsection (b)(2)(A) of this section.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(n-3), as added May 1, 2013, D.C. Law 19-314, § 2(g), 60 DCR 3466.)

Section references. — This section is referenced in § 5-723.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-314 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 2(g) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-314. — See note to § 5-701.

§ 5-723.04. Disposition of forfeitures.

Forfeitures in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712 shall not be applied to increase the annuity of a person, but rather, shall be applied to pay administrative expenses, if and as directed by the District of Columbia Retirement Board, or used to reduce the District's contributions.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(n-4), as added May 1, 2013, D.C. Law 19-314, § 2(g), 60 DCR 3466.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-314 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 2(g) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-314. — See note to § 5-701.

§ 5-723.05. Funds not assignable or subject to execution.

Except as provided in § 1-529.01, none of the money mentioned in this subchapter, including any assets of the District of Columbia Police Officers and Fire Fighters' Retirement Fund, shall be assignable, either in law or equity, or be subject to execution of levy by attachment, garnishment, or other legal process except with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code of 1986, as determined solely by the District of Columbia Retirement Board.

(Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12(n-5), as added May 1, 2013, D.C. Law 19-314, § 2(g), 60 DCR 3466.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-314 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 2(g) of the Police and Firefighter's Retirement and Disability Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-33, March 19, 2013, 60 DCR 4630, 20 DCSTAT 493).

Legislative history of Law 19-314. — See note to § 5-701.

Subchapter I. General Provisions.

§ 5-1304. Basic workweek established; overtime; special assignments; court duty.

Section references. — This section is referenced in § 1-632.03 and § 5-521.01.

CASE NOTES

Stipends.

The $595 annual stipend under District of Columbia statute for detective sergeants was part of plaintiffs' regular pay rate and had to be included in FLSA overtime calculation; District contended that stipend was not part of their basic compensation but rather was additional payment that should not be so included, but FLSA mandated that regular rate include all remuneration for employment paid to, or on behalf of, employee unless it fell under one of eight expressly provided exclusions and District did not reference the exemptions, let alone argue that one of them applied to situation. Figueroa v. District of Columbia, 2012 WL 2367088 (2012).

CHAPTER 14. CHIEF MEDICAL EXAMINER.

§ 5-1401. Definitions.

For the purposes of this chapter, the term:

(1) "District" means the District of Columbia.

(2) "Legal custody" includes imprisonment, jail, or detention.

(3) "Ward" means any person in the official custody of the District government, on a temporary or permanent basis, because of neglect, abuse, mental illness or intellectual disability.

(Oct. 19, 2000, D.C. Law 13-172, § 2902, 47 DCR 6308; Sept. 26, 2012, D.C. Law 19-169, § 13, 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" in (3).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 5-1418. Office of the Chief Medical Examiner Management Fund.

Emergency legislation.

For temporary (90 day) addition of section, see § 202 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary addition of D.C. Law 13-172, § 2918b, concerning blood and urine testing for the District's impaired driving program, see § 202 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C Act 19-508, October 26, 2012, 59 DCR 13325).

§ 5-1419. Impaired driving program; chemical testing.

(a) The CME shall be responsible for ensuring the accuracy of blood and

urine testing for the District's impaired driving program. The CME may test or authorize the testing of specimens, as defined by § 50-1901(18), for the purposes of determining if specimens contain alcohol or a drug.

(b) Until October 1, 2012, and after October 1, 2012 if authorized under § 5-1501.07(d), the CME shall be responsible for testing and certifying the accuracy of any District instrument utilized by District law enforcement personnel to test the alcohol content of breath. A District breath-test instrument shall only be used by District law enforcement personnel if it has been certified by the CME to be accurate. Certification of the accuracy of each breath test instrument must occur at least once every 180 days.

(c) In addition to the requirements under subsection (a) of this section, the CME shall:

(1) Develop a program for District law enforcement personnel to become trained and certified as a breath test instrument operator;

(2) Develop policies and procedures for the operation and maintenance of all breath test instruments utilized by District law enforcement personnel; and

(3) Develop policies and procedures for the maintenance of records demonstrating that the breath test instruments utilized by District law enforcement personnel are in proper operating condition.

(Oct. 20, 2000, D.C. Law 13-172, § 2918b, as added Apr. 27, 2013, D.C. Law 19-266, § 202, 59 DCR 12957; Apr. 20, 2013, D.C. Law 19-260, § 2, 60 DCR 1292.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-260 substituted "180 days" for "3 months" in (b).

The 2013 amendment by D.C. Law 19-266 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 202 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Act of 2013 (D.C. Act 20-3, January 29, 2013, 60 DCR 2762, 20 DCSTAT 410).

For temporary (90 days) addition of this section, see § 202 of the Comprehensive Impaired Driving and Alcohol Testing Program Second Congressional Review Emergency Act of 2013 (D.C. Act 20-51, April 17, 2013, 60 DCR 6344, 20 DCSTAT 1360).

Legislative history of Law 19-260. — Law 19-260, the "Breath Test Admissibility in Criminal Proceedings Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-828. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 9, 2013, it was assigned Act No. 19-612 and transmitted to Congress for its review. D.C. Law 19-260 became effective on Apr. 20, 2013.

Legislative history of Law 19-266. — Law 19-266, the "Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-777. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 24, 2012, it was assigned Act No. 19-489 and transmitted to Congress for its review. D.C. Law 19-266 became effective on Apr. 27, 2013.

Editor's notes. — Section 5 of D.C. Law 19-260 provided that the Act shall apply as of the effective date of the Comprehensive Impaired Driving and Alcohol Breath Testing Program Amendment Act of 2012, signed by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957), which became D.C. Law 19-266, effective April 27, 2013.

Chapter 15. Department of Forensic Sciences.

§ 5-1501.07. Impaired driving program; certification and testing of breath alcohol equipment.

(a) The Department shall be responsible for testing and certifying the accuracy of any District instrument utilized by District law enforcement personnel to test the alcohol content of breath. A District breath test instrument shall only be used by District law enforcement personnel if it has been certified by the Department, or the Department's designee, to be accurate. Certification of the accuracy of each breath test instrument shall occur at least once every 180 days.

(b) In addition to the requirements under subsection (a) of this section, the Department shall:

(1) Develop a program for District law enforcement personnel to become trained and certified as a breath test instrument operator;

(2) Develop policies and procedures for the operation and maintenance of all breath test instruments utilized by District law enforcement personnel; and

(3) Develop policies and procedures for the maintenance of records demonstrating that the breath test instruments utilized by District law enforcement personnel are in proper operating condition.

(c) The Department shall issue regulations to meet the requirements of this section.

(d) The Director may delegate by memorandum of agreement some or all of the responsibilities of this section, as well as some or all of the responsibilities for providing forensic science services pertaining to breath testing as provided by § 5-1501.08(a)(1) to the Office of the Chief Medical Examiner.

(e) This section shall apply as of October 1, 2012.

(Aug. 17, 2011, D.C. Law 19-18, § 8, 58 DCR 5403; Apr. 20, 2013, D.C. Law 19-260, § 3, 60 DCR 1292; Apr. 27, 2013, D.C. Law 19-266, § 201, 59 DCR 12957.)

Section references. — This section is referenced in § 5-1419 and § 50-2206.52.

Effect of amendments. — The 2013 amendment by D.C. Law 19-260 substituted "180 days" for "3 months" in (a).

The 2013 amendment by D.C. Law 19-266 rewrote this section; and added "Impaired driving program; certification and" to the section heading.

Emergency legislation. — For temporary (90 day) amendment of section, see § 201 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary amendment of section, see § 201 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C Act 19-508, October 26, 2012, 59 DCR 13325).

For temporary (90 days) amendment of this section, see § 201 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Act of 2013 (D.C. Act 20-3, January 29, 2013, 60 DCR 2762, 20 DCSTAT 410).

For temporary (90 days) amendment of this section, see § 201 of the Comprehensive Impaired Driving and Alcohol Testing Program Second Congressional Review Emergency Act

of 2013 (D.C. Act 20-51, April 17, 2013, 60 DCR 6344, 20 DCSTAT 1360).

Legislative history of Law 19-260. — Law 19-260, the "Breath Test Admissibility in Criminal Proceedings Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-828. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 9, 2013, it was assigned Act No. 19-612 and transmitted to Congress for its review. D.C. Law 19-260 became effective on Apr. 20, 2013.

Legislative history of Law 19-266. — Law 19-266, the "Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-777. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 24, 2012, it was assigned Act No. 19-489 and transmitted to Congress for its review. D.C. Law 19-266 became effective on Apr. 27, 2013.

Editor's notes. — Section 5 of D.C. Law 19-260 provided that the act shall apply as of the effective date of the Comprehensive Impaired Driving and Alcohol Breath Testing Program Amendment Act of 2012, signed by the Mayor on October 24, 2012 (D.C. Act 19-489; 59 DCR 12957), which became D.C. Law 19-266, effective April 27, 2013.

§ 5-1501.08. Transfer of personnel, records, functions, and authority.

(a) The Mayor shall provide for the orderly transfer to the Department all of the authority, responsibilities, duties, assets, and functions of MPD pertaining to forensic science services, including:

(1) Forensic alcohol;

(2) Computer forensics;

(3) Analysis of controlled substances;

(4) DNA/biological material analysis;

(5) Fingerprint comparison;

(6) Firearms and tool mark examination;

(7) Forensic photography;

(8) Analysis of questioned documents;

(9) Trace evidence analysis;

(10) Personnel and authority for vacant and filled positions;

(11) Property;

(12) Records; and

(13) All unexpended balances of appropriations, allocations, and other funds available or to be made available to the MPD for the purposes of forensic science services.

(a-1) The Mayor shall provide for the orderly transfer to the Department all of the authority, responsibilities, duties, assets, and functions of the Department of Health pertaining to public health laboratory services, including:

(1) Disease prevention, control and surveillance testing;

(2) Emergency preparedness testing;

(3) Food surveillance and testing;

(4) Reference and specialized testing;

(5) Integrated data management;

(6) Education, training and partnerships;

(7) Special research; and

(8) The ability to seek grants pertaining to public health laboratory services from government agencies, including the Center for Disease Control.

(b) The transfers set forth in subsections (a) and (a-1) of this section shall occur no later than October 1, 2012.

(Aug. 17, 2011, D.C. Law 19-18, § 9, 58 DCR 5403; Apr. 27, 2013, D.C. Law 19-266, § 303, 59 DCR 12957.)

Section references. — This section is referenced in § 5-1501.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-266 added (a-1); and substituted "transfers set forth in subsections (a) and (a-1)" for "transfer set forth in subsection (a)" in (b).

Emergency legislation. — For temporary (90 day) amendment of section, see § 303 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary addition of (a-1) and amendment of (b), see § 303 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C Act 19-508, October 26, 2012, 59 DCR 13325).

For temporary (90 days) amendment of this section, see § 303 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Act of 2013 (D.C. Act 20-3, January 29, 2013, 60 DCR 2762, 20 DCSTAT 410).

For temporary (90 days) amendment of this section, see § 303 of the Comprehensive Impaired Driving and Alcohol Testing Program Second Congressional Review Emergency Act of 2013 (D.C. Act 20-51, April 17, 2013, 60 DCR 6344, 20 DCSTAT 1360).

Legislative history of Law 19-266. — Law 19-266, the "Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-777. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 24, 2012, it was assigned Act No. 19-489 and transmitted to Congress for its review. D.C. Law 19-266 became effective on Apr. 27, 2013.

§ 5-1501.11. Science Advisory Board.

(a) There is established a Science Advisory Board, which shall consist of 9 voting members to be appointed pursuant to § 1-523.01(f), as follows:

(1) Five scientists with experience in scientific research and methodology, who have published in peer-reviewed scientific journals, and who are not currently employed by the Department or by a law enforcement laboratory or agency, including:

(A) One statistician; and

(B) One with expertise in quality assurance; and

(2) Four forensic scientists not currently employed by the Department or by a law enforcement laboratory or agency that provides forensic science services to the District.

(b) The Director and Deputy Director shall be ex officio, non-voting members of the Board.

(c)(1) Except as provided in paragraph (2) of this subsection, each voting member shall be appointed for a 3-year term. Whenever a vacancy occurs in an unexpired term, the Mayor shall appoint a replacement to fill that unexpired term in the same manner as the original appointment.

(2) The initial term of each member shall be staggered so that 3 members are appointed for one year, 3 members are appointed for 2 years, and 3 members are appointed for 3 years. The members to serve the one-year term, 2-year term, and 3-year term shall be determined by the Mayor at the time of nomination.

(3) The initial terms shall begin on the date a majority of the voting members have been sworn in, which shall become the anniversary date for all subsequent appointments.

(d) The Board shall elect a chairperson from among its voting members.

(e) The presence of a majority of the voting members holding office shall constitute a quorum.

(f) The Board shall hold no fewer than 4 regular meetings per year. The chairperson of the Board shall fix the time and place of each meeting. Additional meetings may be called either by the chairperson or upon the written request of the Director or of any 3 members of the Board.

(g) Minutes shall be prepared for each meeting. A transcript or detailed summary shall meet this requirement.

(Aug. 17, 2011, D.C. Law 19-18, § 12, 58 DCR 5403; June 19, 2013, D.C. Law 19-320, § 507, 60 DCR 3390.)

Section references. — This section is referenced in § 1-523.01 and § 5-1501.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-320 inserted "and who are not currently employed by the Department or by a law enforcement laboratory or agency" in (a)(1).

Emergency legislation. — For temporary amendment of (a)(1), see § 507 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 507 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.